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International Court of Justice

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Official Transcript of the International Military Tribunal in the matter of The United States of America, the French Republic, the United Kingdom of Great Britain and Northern Ireland, and the Union of Soviet Socialist Republics against Hermann Wilhelm Goering et al, Defendants, sitting at Nurnberg, Germany, on 21 May 1946, 1000-1700. Lord Justice Lawrence presiding.

ERICH RAEDER -- Resumed

RE-DIRECT EXAMINATION

BY DR. SIEMERS:

Q Grand Admiral, with reference to your examination yesterday, I have to put the following questions to you in re-examination. Sir David was talking about the fact that before 1933 you had carried out rearmament behind the backs of the leaders of the Party in Germany. I think that question, as such, has been clarified, but there is one supplementary question. On whom did it depend just what was submitted to the Reichstag?

A The Reichswehr Minister, Reichs Minister for Defense. He at that time was a member of the government and my direct superior. I had to submit everything to him which I wished to deal with.

Q And his name was Groener, wasn't it?

A Yes.

DR. SIEMERS: May I draw the Tribunal's attention to the extract which I have submitted as Raeder's Exhibit No. 3, according to which Article 50 order is that the Reich President is giving all orders and decrees even where the armed forces are concerned. For their validity decrees even where the armed forces are concerned. For their validity decrees require to be countersigned by the Chancelor or the Minister concerned and by the act of countersigning responsibility is accepted. In this, our case, the Reichsminister was competent as the Reichs Minister, and anything that was done afterwards was a matter for the government to decide. Sir David has read to you Document C 17. It is the index of a document written by Oberst Scherf, called The History of the German Navy from 1919 to 1939. Was this book ever written?

A As far as I know, only the index was compiled. I assume that if anything had been written, then it would first of all have been put before me. but I have never heard of that at all.

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DR. SIEMERS: May I remind the Tribunal that the American Prosecution, at the time when they submitted the document, pointed out that as far as they know the book was not written.

BY DR. SIEMERS:

Q I believe that it is very difficult to base accusations on an index, but I want you to to tell me. Defendant, when did you learn of this index?

A It was here during my first interrogation by an American Prosecutor.

Q Furthermore, D 854, this document which is GB 460, was put to you yesterday. May I come back to one question put by Sir David. On page 1 Sir David had been reading that and it was pointed out that in every sphere of rearmament of the Navy that long before the 16th of March, 1935, the Versailles Treaty had been violated so far as the letter and certainly as far as the spirit is concerned and that at least violations had been prepared. Then Sir David asked you: Do you want to say that this is untrue? Your answer was, or rather you answered but you didn't quite finish your reply because it never became quite clear what you said in the German or the English record. I want you to tell me why you are of the opinion that Assmann was not quite right in this respect?

A It is an utter exaggeration. First of all, violations as have been proved here in detail were mostly of a very minor nature and the small deviations may have given the impression that there were many. Secondly, in the important parts, we never fulfilled the Versailles Treaty: in fact, we remained below the figures granted. The question of the very, very small and useless defense which we were allowed to have -- Assmann's representations are just an exaggeration.

Q What are you trying to say, therefore, is the Assmann's expressions in practically every sphere of rearmament were wrong?

A Yes, that the document C 32 was brought into that conclusion because there were so many points which, however closely examined, would turn out to be very minor and that, therefore, the important points of rearmament, that is to say construction of large ships, there the Navy did not violate the Treaty, no.

Q Sir David was attaching particular importance to emphasizing three times the fact that you had a great deal of confidence in Assmann. I have nothing to say against it, but over and above it I would like to put a supplementary question to you. Did you have that much confidence in him, that, in your opinion, Assmann could pass a proper legal judgment? Was he a legal man?

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A No. Assmann was a naval officer who wasn't being used at the front any more and who was a very clever writer. He had written a few volumes about the First World War. He was writing very well, but even volumes regarding the First Naval War were corrected a great deal by the persons concerned by it; but against him and his ability to write history nothing can be said.

Q Grand Admiral, I think you remember this document from yesterday. Is it a final historical work? Is it a finally corrected edition?

A No. So far as I know, he hadn't got that far. He was making summaries and extracts from war diaries and the records he had.

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Q Assmann has written:

"If, considering the situation, there were preparations in 1935 for the construction of twelve 275-ton submarines, six 750-ton submarines, and four 900-ton submarines, and from 1936 preparations for six 550-ton submarines, then one will have to consider the strategic considerations which existed at that time."

If I add, then this shows that there are twenty-two, and one year later forty proposed submarines -- by no means built, just proposed. Are these figures correct in your opinion?

A In my opinion they are. The only thing I'm not sure about is the 900-ton type; I can't quite explain that. I can't remember that at that time we were building 900-ton boats.

Apart from the 250-ton type, our first types were 550-tons or so, and then came the 740-ton boats. Perhaps he is thinking of those when he says 900 tons. We didn't actually build 900-ton boats.

Q On page 158, Sir David hasread to you the following sentence, which I want to repeat because it needs clarification.

"Germany, particularly where U-boat construction is concerned, has adhered the least to the limitations of the Anglo-German Treaty. Considering the size of the boats already under order, there will be by 1938 fifty-five submarines. In fact, 118 were completed or ordered."

I want to remind you that here was the note No. 6 in the original referring to a letter to the Chief of the Naval Budget Department of the year 1942, where presumably the budget had references to the construction of submarines as the years went by. I believe that these figuresneed to be clarified.

According to material at my disposal, it appears that these fifty-five submarines were in accordance with the London agreement; that is to say, in accordance with the forty-five per cent agreed in 1935. You probably haven't got the exact figure in mind, but is that roughly correct?

A Yes, that's probably right.

Q And now, the figure 118. That, according to material at my

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disposal, has also good reasons behind it. That is the figure which corresponds to the one hundred per cent tonnage of submarines. If we had 118 submarines, then our submarine equipment corresponded to that of Britain at that time.

A Yes, it is correct; and it is also correct that we included these further boats in the budget and had ordered them on the 30th of December. We had seen Admiral Cunningham and his friends in Berlin and had brought about a friendly agreement, in accordance with the contract or the agreement, thinking that we could build one hundred per cent. The remark read at the beginning, namely, that we had committed both violations in this sphere, is perfectly untrue. Until the beginning of the war we have only built such U-boats as were allowed to build; that is to say, forty-five per cent first, and later one hundred per cent. That was a great mistake that we did it.

Q Grand Admiral, you've just said that it was an untruth. I think that, even if Sir David used that word against you, one oughtn't to pass such sharp judgment against Assmann. Did you think, Grand Admiral, that there was a legal error on his part when he was writing down these details and that he wasn't really thinking of what you've just told us had happened; namely, that in 1938 there had been an agreement between England and Germany, according to which Germany could now build one hundred per cent?

A That is very probably. When I said "untruth", I meant incorrectness

Q May I remind the Tribunal that in the fleet agreement of 1935, one hundred per cent was planned from the beginning and that Germany had the right at any time to increase to one hundred per cent, provided that it notified Great Britain. The notification is presumably what you described, witness; that is the negotiation with Admiral Cunningham?

A Yes, that was on the 30th of December, 1938, or it may have been the 31st of December.

THE PRESIDENT: Is the defendant saying that there was a notification to Admiral Cunningham on the 30th of December, 1938? Is that what you said; that there was a notification to Admiral Cunningham on the 30th of December, 1938?

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THE WITNESS: Admiral Cunningham came to Berlin, to this friendly negotiation which had been provided for in the agreement. On that 30th of December we arranged with him that from now on, instead of forty-five per cent, one hundred per cent would be built.

THE PRESIDENT: Was that an oral arrangement or a written one?

THE WITNESS: It was a conference between the Chief of Staff, Naval Command Staff, Admiral Cunningham, and certain other individuals, and I can't say for certain today, but I'm pretty certain that minutes were taken.

THE PRESIDENT: Go on.

BY DR. SIEMERS:

Q Mr. President, unfortunately, I haven't been able to place any written material. I only know from Raeder Exhibit No. 11 that the agreement of 1935, according to which Germany could increase the tonnage, and the agreement of '37, according to which Germany had the duty to notify them of such treaties. Generally, in such drastic changes, the written system was chosen, although in my opinion it wasn't necessarily a duty in this case. Negotiations, as the witness said, did take place.

A Yes. May I, perhaps, add that apart from the submarine problems, the question of two heavy cruisers was also settled, which we had, also, originally dropped when we only wanted to build three, and now we were asking that we should have their agreement to build the other two, to which we were entitled. That was also agreed upon in accordance with the agreement.

Q Document 340 wasput before you yesterday; it is US 51. You will find it in the British document book 10-A on page 104. I want to put one sentence from that document to you again, which hasnot been quoted by the Prosecution, neither in November nor yesterday. It appears under figure "2" and "c". That is document book 10-A, page 104. And there, under figure "2" and "c" there is the following statement -- and I want to add that this is the question of sanctions and the possible preparation of a defense against sanctions in 1935. I quote from "2-c":

"First of all, I prohibit any practice or preparations."

Witness, I want to ask you this --

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THE PRESIDENT: That is not 10-A, 104.

DR. SIEMERS: Mr. Elwyn Jones has just been kind enough to point out to me the English translation. It appears from it that, although I have also got the English translation before me, that there are two documents C-340; one has one page and the other has two. One hasn't got a heading and is dated "Berlin, 25th of October, 1933". In my opinion --

THE PRESIDENT: The one on page 104 --

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THE PRESIDENT: That is the one on page104?

DR. SIEMERS: No, on page 104 there is, I just heard from Mr. Elwyn Jones, the other document, C 140, which has the heading, "Directive for the Armed Forces in Case of Sanctions."

THE PRESIDENT: Yes, and the date of it is 25 January 1933?

DR SIEMERS: 25 October, 1935, but that is an error. It is 1933.

MR. ELWYN JONES: There appears to be abother document which is not in the document book.

THE PRESIDENT: Not in the book?

MR. ELWYN JONES: Not in the book.

THE PRESIDENT: I see.

DR. SIEMERS: Mr. President, perhaps I may point out that the Prosecution have presented the document, the other C 140, US 51. That must be the one I have referred to because it tallies with the record; I mean the record of the session of 27 November. There will be the document to which I have just now referred.

THE PRESIDENT: Is it C 140 or C 141?

DR. SIEMERS: C 140, the same number, and that is the same as USA 51.

Mr. President, perhaps to simplify it, I may later, after today's session, submit the 140 to German and English.

THE PRESIDENT: You can read the document now and you can settle with Mr. Elwyn Jones about the proper notation of the document, whether it should be C 140 or whatever the exhibit number ought to be.

DR. SIEMERS: Very well, sir.

BY DR. SIEMERS:

A In the version submitted by the Prosecution, preparation for the defense against sanctions is mentioned. I shall now read a further sentence to you, and I quote, to begin with, "For the time being, I prohibit all practical preparations." Would it be right, therefore, that in 1933 nothing whatever was prepared by you in the Navy?

A Apart from the ordinary state of preparedness, nothing was allowed to be done, in accordance with this order. This is merely a

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a caution on the Fuehrer's part in the event that the opponent might do anything following his measures.

Q You see, the reason why I am asking you this is that yesterday in the cross examination your preparations that you were supposed to have made in this connection were held against you.

DR. SIEMERS: I now come to document c 189, which is USA 44. I beg to apologize for troubling the Tribunal in that I am asking them, if possible, to look at the document again. It is contained in document book Raeder No. 10 page 14, and, incidentally, Sir David re-submitted it yesterday.

BY DR. SIEMERS:

Q Sir David was attaching great importance to the two words "against Britain". There under Figure 2 it says, "The C. in C. expresses the opinion that later on the fleet must anyhow be developed to oppose England and that, therefore, from 1936 onward, the largest ships must be armed with 35 cm. guns like the "King George" class." Would this mean that in connection with this remark, you were using the plans of Britain in connection with the "King George" class?

THE PRESIDENT: The reference came through wrong. It came through to me 10, page 14. It is not 10, page 14.

DR. SIEMERS: My Lord, I find it on page 66. I beg to apologize. Is my figure correct now? In my English document book it was on page 14, but---

THE PRESIDENT: It is 66 or 68 in my copy.

DR. SIEMERS: And from there, Mr. President, I have just quoted Figure 2.

THE PRESIDENT: Yes.

BY DR. SIEMERS:

Q The only reason, therefore, why you were pointing this out was that you were considering the 35 cm. guns used in connection with the "King George" class by the British Admiralty?

A Yes, it was the aim of every navy at that time to know as nearly as possible which of the larger calibre of guns was being used by other navies. I said yesterday that, to start with, we would be using the French gunboats as a sample, but later on we discovered that the British went up to 35 cm., and I must rely on

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figures that were actually existing for a possible war and one always went as high as possible.

Q Would I be right, therefore, If I said that the expression "against Gr Britain" in this connection and grammatically according to German language usag is not correct and that it should have said "with reference to England"?

A Yes, it should have said "with reference to England". I said yesterday that it would be quite contradictory if just before the conclusion of the pact I were to say something like that.

THE PRESIDENT: That was fully gone into in cross examination, and the defendant stated his explanation of the words used.

BY DR. SIEMERS:

Q From document C 190 Sir David has put something to you. It is the conversation on 2 November 1934 aboard the "Emden" which took place between you an Hitler. He told that you in a conference between you and Goering and Hitler sai that he considered the expansion of the navy in the planned manner an absolute life necessity since war could not be conducted unless the navy were to safeguard the ore imports from Scandinavia. It was said that this should be understood to mean that the navy was planning for a war and was to look after the or imports, and that this was an aggressive plan. Are you of the opinion that the British navy was not planned to safeguard imports to England or for the event of war and was not equipped accordingly?

A No, there is no doubt about that.

Q Six submarines are mentioned in this document. Considering that figure may I ask you to tell me the number of submarines thatt Germany should have in order to conduct an aggressive war?

A Well, at any rate, many more than we had in October 1939, a multiple of that.

DR. SIEMERS: From a document, Mr. President, which was yesterday submitt D 806, I want to quote, apart from the second paragraph which has been quoted, the first paragraph and put it to the witness. It is D 806, GB 462, submitted yesterday toward the middle of the day.

BY DR. SIEMERS:

Q There it says, "Reference: Submarine Construction Program. On 27 Octob 1936 decision made regarding the exploitation of the still available U-boat

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tonnage according to the fleet agreement 1935 and regarding the immediate ordering of new construction of U-41 to U-51."

Q These submarines that were planned, were they the balance of those submarines which according to the fleet agreement of 1935 you were entitled to?

A Yes, that is the situation.

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Q And then the Grand Admiral has been very thoroughly questioned about Austria and Czechoslovakia. Since that subject has been gone into in detail, I shall confind myself to just one question:

Did you at any time have any tasksof a foreign political nature from Hitler? Were you especially asked for your advice in foreign political matters by him?

A I was never asked for my advice, and I had no foreign political tasks, unless you consider the duties which I had to fulfill in Bulgaria and Hungary after my resignation.

Q Regarding Czechoslovakia, it has been put to you that Hitler had intentions of aggression against Czechoslovakia at that time. I think the question ought to be whether there were intentions for an aggressive war.

In connection with that, you have been asked about Goering's threat of bombardment of Prague, and you quite rightly admitted that such a bombing would be a threat. Sir David, of course, cited it as being near to aggressive war, but in order to be quite clear, I want you to tell the Tribunal when you learned of this planned bombing.

A Only after the whole matter had been settled, and only in a conversation. I heard no announcement and I knew nothing else of it.

Q So that before the occupation you knew nothing of it?

A No, because military plans against Prague were unknown to me altogether.

DR. SIEMERS: Then there is the document C-100, Mr. President. It was presented yesterday under the number GB-464.

THE PRESIDENT: I have it as No. 463.

DR. SIEMERS: I beg your pardon; 463.

BY DR. SIEMERS:

Q From that document I want to quote to you from page 10. It is page 6 of the attached document. I want to put the following sentence to you. I quote:

"Fuehrer asks whether there were any special wishes of the Navy with reference to bases on Dutch-Belgian Coast. Commander in Chief Navy says no since bases are within reach of British coast and are therefore useless as

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submarine bases."

Was that your opinion regarding the question?

THE PRESIDENT: Where, exactly, are you reading from? Your pages aren't the same as ours. With reference to the Roman numerals, for instance Sir David quoted from Paragraph IV.

DR. SIEMERS: I beg to apologize, Mr. President, but the German copy is very difficult to read. My copy consists of seven pages, and then there is an attached document regarding the report to the Fuehrer on the 6th of November 1939.

THE PRESIDENT: You have got Roman numerals in it, haven't you? Haven't you got the passage that Sir David read, Paragraph IV?

DR. SIEMERS: I can't see any Roman numerals here, I'm afraid, but I will have a look at the English text.

THE PRESIDENT: It is in the English text. It is on page 5, No. IV:

"Decision of the Fuehrer is made in favor of a western offensive beginning very shortly..." and so on.

DR. SIEMERS: Apparently, Mr. President, Mr. Elwyn Jones is right. He says that the part which I have just been reading wasn't contained in the English translation, but it is part of the photostat copy of the original. The English translation only contains the first part of the document, and not that report to the Fuehrer of November 1939.

THE PRESIDENT: You had better read it then.

DR. SIEMERS: Very well. It is Figure 6 of that enclosure:

"Fuehrer asks Commander in Chief Navy whether special wishes of Navy exist regarding bases on Dutch-Belgian coast. Commander in Chief Navy says no, since bases are within reach of the British coase and are therefore useless as submarine bases."

BY DR. SIEMERS:

Q According to this, Mr. Witness, you were not in favor of an occupation of Belgian and Dutch bases, nor did you in any way occupy yourself with this question.

A This was always my point of view, that Belgium and Holland, asfar as the Navy was concerned, could not offer any useful bases since all forces

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would be within reach of the British. That is why I was disinterested in Belgium and such places.

Q I now come to D-843, GB-466, which is a document of Brauer from the Oslo Embassy, expressing the view that the

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danger of a British occupation of Norway was hardly very great, and that such actions were only being taken by Germany.

I have only one question on that. Did the Embassy in Oslo, that is to say Brauer, know the information that Admiral Canaris was supplying to you?

A I can't tell you that on my part. I was never in direct contact with Dr. Brauer, only with the naval attache, but I must add that Dr. Brauer had only been in Oslo for a comparatively short period, and that apparently he wasn't as well informed as he should have been. Also, statements by Norwegian ministers weren't properly appreciated by him.

Q Wasn't there an order from Hitler that the Foreign Office should not be informed regarding plans concerning Norway?

A Yes, he expressly ordered that, and apparently for that same reason the Reich Foreign Minister himself was informed very late.

Q In other words, the Ambassador could not have had Canaris' information through military sources.

A No, hardly.

Q WThen there were several documents, D-844 and D-845. It was put to you from those that there was no danger in Scandinavia. Was the information that you received at the time different?

A Yes.

THE PRESIDENT: All this was gone into yesterday, and the witness gave the same answer.

DR. SIEMERS: I believe that the following has to be mentioned though.

BY DR. SIEMERS:

Q Did you know whether as early as the 5th of April mines had been laid in the territorial waters off Norway?

A The Allies had announced it on the 2nd, but the actual operations must have taken place a few days earlier.

Q Grand Admiral, yesterday --

THE PRESIDENT: (Interposing); Dr. Siemers, the only purpose of re-examination is to bring out matters which are favorable to your client which have not been raised in cross examination, that is to say, to explain anything which has not been given in cross examination. He has given his account in cross examination. It is no good putting it to him again in re-examination, We have heard it.

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DR. SIEMERS: I think that on this particular point there was one explanation missing.

BY DR. SIEMERS:

Q You were asked yesterday what had been the technical development since 1936, and how the legal situation regarding submarine warfare would have been influenced, which is a somewhat difficult question, and it is difficult to answer it in two seconds, You have mentioned aircraft. Can't you supplement your statement?

A Yes, because I had forgotten the most important point. At that time there was strong opposition against me, and the important point is that the sighting of ships at sea by aircraft was something quite new and had been developed very efficiently. Location was developed very rapidly during the war, Submarines could very quickly be located and very quickly hunted.

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Q Regarding D-841, which is in the affidavit from Dietmann, may I, with the Tribunal's permission, make a formal application? In this affidavit, there is the following sentence:

THE PRESIDENT: Dietmann, you mean?

DR. SIEMERS: GB-474

THE PRESIDENT: Yes, Dietmann's affidavit.

DR. SIEMERS: Yes, Dietmann's affidavit. There is the sentence, the last sentence which was read yesterday: "It is my personal opinion that the highest formation of the Navy in Kiel and other locations in Germany had knowledge of these dreadful things."

THE PRESIDENT: Had knowledge or must have had? It seems to me it is in the translation "must have had knowledge."

DR. SIEMERS: Yes. I haven't got the German and I don't know how the original is worded. I only have the English translation. It isn't quite clear to me how the German version was worded.

THE PRESIDENT: Is the document put in the original German or is it put in in the English? The deposition is in German presumably.

DR. SIEMERS: I presume that originally the statement was in German. The copy I have states that this is a translation and of course it is English but I haven't seen the German original.

SIR DAVID MAXWELL FYFE: My Lord, there must have been a German copy for the witness yesterday. I don't know whether or not it is the original. I didn't see it but I assume it was.

THE PRESIDENT: It isn't the case that the deposition was made in German, then translated into English and then translated back into German, was it?

SIR DAVID MAXWELL FYFE: My Lord, that is why I assume it was the original. I am sorry it was made. I haven't got the original document in front of me but I assume that was so. I will find out in a moment for you.

THE PRESIDENT: Yes. What is the point, Dr. Siemers.

DR. SIEMERS: I believe that this sentence should be struck from the document.

THE PRESIDENT: You mean, you are asking to have it struc

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out or what?

DR. SIEMERS: Yes.

THE PRESIDENT: What do you have to say, Sir David.

SIR DAVID MAXWELL FYFE: My Lord, the witness sets out fully the fact in the preceding paragraph of the affidavit and then it is true that he introduces the sentence "By my personal opinion..." but the gist of the statement is that from these facts which I have stated"...the highest formations of the Navy in Kiel and in other places in Germany must have had knowledge of these terrible conditions."---a man who has been working in that detachment of the German navy and knows the communication between that detachment and the headquarters, is in a position to say whether headquarters would have knowledge from the facts he has stated. In his inference, that has a greater probative value than the inference which the Court can draw. The objection to the statement of a matter of opinion is where the witness gives his opinion on a matter on which the court is equally capable of drawing its opinion from the same facts but the importance of that statement is that he is saying "working in the bow and being familiar with the chain of command and communications," and I say that anyone at Kiel must have been able to learn from these facts what was going on at these places -- so that is the narrow point, whether his special knowledge entitles him to express a view which the Court, without that special knowledge, would not be in a position to draw.

THE PRESIDENT: But ought he not theoretically to state all the facts and if he does state all the facts, then the Tribun will be in the same position as he is to form a judgment and it i for the Tribunal to form the judgment.

SIR DAVID MAXWELL FYFE: My Lord, that is exactly the point to which I was addressing my argument, that there is an additional fact, that because he was working there, was part of the chain of naval command and he is speaking of the knowledge of the naval command from the point of view of somebody who was work

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ing in it and therefore he has on that point his opinion as to the sources of knowledge, and the necessity of constructive knowledge is an additional fact. My Lord, the state of a man's mind and the expression of his knowledge may be a fact in certain circumstances just as much as it is a fact, as it is stated, as Lord Broyne once put it.

THE PRESIDENT: Yes, if the state of his knowledge is directly relevant to an issue.

SIR DAVID MAXWELL FYFE: Yes, my Lord, that is the point here.

THE PRESIDENT: It is a form of expert evidence.

SIR DAVID MAXWELL FYFE: My Lord, in a sense, it is not as your Lordship says in a form, it is not in a usual form, but it is the evidence of somebody who has special knowledge. My Lord, it is a well-known distinction, for example, in the laws of LIBEL between the persons who have expert knowledge and the public at large and, my Lord, the opinion of someone with a special knowledge of the facts must, my Lord, have probative value within Article 19 of the Charter. My Lord, if the provision is that this Tribunal is not bound by the technical rules of evidence as to mean anything at all, I submit it should cover the expression of opinion on a point such as this; that is, the ability to have knowledge, which is given by somebody who is in a special position to state such an opinion.

THE PRESIDENT: It is a very small point, Sir David, and we have to decide the matter and form our own opinion about it, and this man isn't here for the purpose of being cross-examined for anything of that sort.

SIR DAVID MAXWELL FYFE: No, that is so my Lord but, of course that, with respect, cuts both ways. Here he gives an affidavit and part of it as the basis, leads up to that conclusion. I should respectfully submit that that conclusion is a statement of fact --- but, if your Lordship says so, the time will come when we can ask your Lordship to draw that conclusion as a matter of

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argument ourselves but, my Lord, on the general position, the only reason that I have occupied even this much of the Tribunal's time is that Article 19 is an important matter in view of the prosecution and, therefore, we have to argue against it being whittled dow. It is the only reason that I take up the Tribunal's time.

DR. SIEMERS: Mr. President, may I just draw your attenti to one point. Sir David has just been mentioning the well-known legal difference. That is just what I want to make my argument on, the differen ce between facts and opinions. Here opinion is mentioned and please note that the following sentence does even go further there; there, the witness is coming to a legal opinion and he is stating who is responsible; therefore, he is passing some sort of judgment. Furthermore, please, will you consider that this is quite a minor official who, after all, can't possibly make such far-reaching statements, saying that higher formations in Kiel and some other places, quite generally expressed in Germany, had knowledge of something or other.

THE PRESIDENT: The Tribunal will adjourn.

SIR DAVID MAXWELL FYFE: My Lord, before the Tribunal adjourn, might I make a correction and an apology? My Lord, I thought that a copy in German had been put to the witness yesterday, of this affidavit and apparently it was a copy in English. The original affidavit was sent off on the 6th of May; it was verified over the telephone by Colonel Phillimore and it has not yet arrived: an English copy was sent and has been processed and the original will be put in as soon as it arrives. My Lord, I thought we had the original but apparently it has not yet arrived, but it is an English document put to the defendant.

THE PRESIDENT: Will you let Dr. Siemers see the original as soo as it arrives?

SIR DAVID MAXWELL FYFE: Yes.

(A recess was taken.)

THE PRESIDENT: The Tribunal has carefully considered Dr. Siemers' application and it has decided that the passage to which he objects and which he asks the Tribunal to strike out in the affidavit of Walter Kurt Dietmann shall not be struck out, in view of Article 19 of the Charter. The passage contains an opinion only, and the Tribunal will consider that opinion in relation to the whole of the evidence when it is before the Tribunal, and will decide at that time the probative value of this opinion as well as the probative value of the other evidence.

Dr. Siemers, may I remind you that you told us your re-examination would take, you hoped, about half an hour?

DR. SIEMERS: Yes, Mr. President, I shall conclude very shortly.

BY DR. SIEMERS:

Q Grand Admiral, in connection with this commando decree which we discussed a good deal, yesterday Sir David put a case to you regarding the attack on the ship Tirpitz. In this connection I should like to ask you: Do you recall that in this particular a point was raised in the testimony of Wagner about the British sailor Evans?

A Yes.

Q And do you recall also that, according to the affidavit of Flesch, number 64, GB-57, Flesch declared: "I do not know that Evans wore a uniform"?

A Yes.

Q Then I do not need to submit the document to you?

A No, I don't need it.

Q Do you recall further that in document UK 57, which was submitted on the same day during Wagner's testimony, he says: "The British sailor Evans was captured wearing civilian clothing"?

A Yes.

Q And that was one case where the SD, on the basis of the commando order, committed a murder without the knowledge of the Navy?

A Yes. This man had been apprehended by the SD or the Police, not by the Navy. He had been interrogated by the Admiralty in the meantime.

Q The second case of which you are accused is the sabotage attack before Bordeaux. I clarified this situation in Wagner's testimony the other day.

In this document it also stated that these people, as civilians, tried to escape to Spain.

H0137-0022

H0137-0023

A Yes, that is true.

Q Grand Admiral, at any time, when small arms were used, which were discussed yesterday, and when this group was led by Vice Admiral Heye, did our soldiers ever appear in civilian clothing?

A No.

Q Always in uniform?

A Yes, always in uniform. They were soldiers and they were used along with submarines and other craft like that.

DR. SIEMERS: As my last point, Mr. President, I should like to point out that yesterday Colonel Pokrovsky submitted a document, USSR 460, which deals with the Moscow declaration.

COLONEL POKROVSKY: My Lord, the point is that yesterday the Tribunal made a decision about submitting to the attorney for the defense extracts ffom USSR 460. Today the prosecutors have exchanged opinions amongst themselves; and the prosecution of the United States, represented by Mr. Dodd, Sir David Maxwell Fyfe for Great Britain, and myself for Russia, have agreed that it is necessary for us to request you to permit us to read into the record here today, so that it will be included in the record for today, several brief extracts referring to Admiral Doenitz, to Keitel, and to Jodl. These are the excerpts which, yesterday, the Tribunal did not find possible to have read into the record as evidence. We understood the Tribunal in such a manner as to interpret that as being occasioned by lack of time to consider it thoroughly.

From our viewpoint, it is extremely important to have these excerpts read into the record today. The excerpts referred to yesterday by the defendant have not been included in yesterday's minutes. For that reason I am requesting just about five minutes' time to read these excerpts into the record today, on behalf of the prosecution of the three countries.

THE PRESIDENT: What would be the most convenient course, Dr. Siemers? Would you like to have them read now so that you can put any questions upon them?

DR. SIEMERS: Mr. President, may I just make this remark? The Soviet Delegation has been kind enough to put the original at my disposal. I perused the original yesterday, and I looked at the excerpts and extracts. The Soviet delegation has also been kind enough to put a photostatic copy of the extracts involved at the disposal of the High Tribunal. I am completely in agreement with the suggestion, but I personally do not have the intention of putting any questions on this document.

H0137-0024

THE PRESIDENT: Very well.

DR. SIEMERS: I would like to ask that the resolution which was put forth by the High Tribunal yesterday be upheld, that this not be read, the same procedure which has been applied to other documents of the same type which were not read either.

THE PRESIDENT: Colonel Pokrovsky, the document was originally in German. Presumably it has been translated

H0137-0025

into Russian; it has certainly been translated into English. Unless the members of the French Prosecution want it read, if it hasn't been translated into French there doesn't seem to be any use taking up the time of the Tribunal in reading it into the record. We have got the document in English, and we have all read it

MR. DODD: Mr. President, I think there is one reason. Even if it read into the record, it will at least be tomorrow before the transcript is available for the defendants who are referred to, and this witness, or this defendant, will be off the stand. If they want to cross-examine about what he has said about them, then we will, I suppose, have to bring this defendant back on the stand. I think we will lose far more time by doing that, rather than now having Colonel Pokrovsky take five minutes to read it. They will all hear it, and then if they want to examine about it, they can do so promptly.

THE PRESIDENT: Very well.

DR. SIEMERS: If you don't wish to ask any questions about it, you can conclude your re-examination, and then Colonel Pokrovsky can read the document. Then any of the other defendants can question the witness upon it if they wish t

DR. SIEMERS: Yes.

THE PRESIDENT: Would that not be the best way, Colonel Pokrovsky?

COLONEL POKROVSKY: Yes.

DR. SIEMERS: I am agreed, Mr. President, but I do believe that this document need not be read, because Mr. Dodd was a little bit incorrect when he said that the defendants are not familiar with this document. They are thoroughl familiar with it. I believe everyone knows it, and I do not think that it needs to be read. However, in the final analysis, it really makes very little difference to me personally.

H0137-0026

THE PRESIDENT: If the defendants' counsel do not want i t read then the Tribunal does not want ot have it read unless defendants' counsel want to ask questions upon it.

DR. KRANZBUEHLER: Mr. President, I am not interested in having the document read. I know the document.

DR. SIEMERS: I have just been advised that the defense attorneys know the document, do not put any value on having it read and do not wish to put any questions.

THE PRESIDENT: Well then, Mr. Dodd and Colonel Pokrovsky, it does not seem that it serves any useful purpose to have it read.

MR. DODD: No, I am satisfied your Honor. I have not heard from Keitel's attorney; I assume he is satisfied. I am just concerned that at some later date -- a very interesting document to us, of course -- I am just concerned some question may be raised and I am also sympathetic to the desire of these defendants not to have it read publicly.

The defendant Schacht's counsel has not spoken either. I think it might be well,Mr. President, if we had a careful statement from counsel for each of these men that they do not wish to question on it so that we can be completely sure that it will not be raised again.

THE PRESIDENT: Well, I think the defendants' counsel are all here or all the defendants are represented and they must clearly understand what I am saying and I take it from their silence that they acquiesce in what Dr. Siemer's has said, that they do not wish the document to be read and they do not wish to ask any questions.

COLONEL POKROVSKY: I have not understood your decision, my Lord. Are you permitting me to read these few excerpts or are you not?

THE PRESIDENT: No, Colonel Pokrovsky. I am saying as the defendants' counsel do not wish to document to be read it need not be read.

COLONEL POKROVSKY: We do give a great deal of importance and significance to this document as it involves not only the interests of the defense but also the interests of the Prosecution.

The document was accepted by the Tribunal yesterday but for some reason only a very short part of it was included in the stenographic record

H0137-0027

for the day and it seems to me that the defense today have reasons not to have it read publicly, especially the defense counsel for Keitel, Jodl and Raeder. It appears to me that our interests are quite at stake there, I mean that we have it included in the stenographic records.

THE PRESIDENT: Colonel Pokrovsky and Dr. Siemers, the Tribunal has ruled yesterday that it was unnecessary that the document should be read and the Tribunal adheres to that decision in view of the fact that the defendants' counsel do not wish it to be read and have no questions to put upon.

Yes, Dr. Siemers.

DR. SIEMERS: Mr. President, I will now conclude my examination of Grand Admiral Raeder. I do not know whether other questions will be put to Grand Admiral Raeder.

THE PRESIDENT: Is there any question which has arisen out of the cross-examination which the defendants' counsel want to put?

DR. KRANZBUEHLER: I should like to put two questions, Mr. President.

BY DR. KRANZBUEHLER:

Q Grand Admiarl, in cross-examination you were confronted with orders and memoranda as to the U-boat warfare.

A Yes.

Q Do you consider yourself responsible for these decrees dealing with the U-boat warfare which during your term as commander-in-chief of the navy were issued and which you issued?

A I consider myself fully responsible for the total number of decrees issued as to the U-boat warfare which took place under my responsibility as well as every naval operation which I ordered.

In the S.K.L. and with the officers of the S.K.L. I worked out these directives, I approved memoranda and in accordance therewith put forth my decrees. The commander-in-chief of the U-boats was solely the tactical commander of the U-boats. He transmitted the orders and he led and carried through the operations.

Q Grand Admiral, Sir David yesterday accused you of the fact that he could not determine who actually gave the orders that the log book of

H0137-0028

the U-boat that sank the "Athenia" was to be changed. Admiral Godt testified in answer to my question that he had issued this order at the request sf Admiral Doenitz. Do you know of any fact which would show this testimony of Admiral Godt to be incorrect?

A No, I did not concern myself with this case. I only decreed the three points which have been mentioned repeatedly.

Q Therefore, you consider Admiral Godt's testimony as being correct?

A I assume that it is correct since everything else he said was very reliable.

DR. KRANZBUEHLER: I have no further questions, your Honor.

THE PRESIDENT: The defendant can return to the dock.

DR. SIEMERS: Then, with the permission of the High Tribunal I should like to call my first witness, the former Reich Minister of the Interior, Severing.

KARL SEVERING, called as a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q Will you state your full name?

A Karl Severing. I am 70 years old and I live in Bielefeld.

Q Wait one minute. Will you repeat this oath after me.

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(Witness repeated oath.)

THE PRESIDENT: You may sit down.

DIRECT EXAMINATION

BY DR. SIEMERS:

Q Mr. Minister, please tell the High Tribunal what role you played up until the year 1933 in the Social Democratic Party and which ministerial posts were yours up until the year 1933.

A At the age of sixteen and a half years I entered the labor union movement and when I was eighteen years I entered the Social Democratic Party and as a result of that I was active and had honory positions at

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A At the age of sixteen and a half years I entered the labor union movement and when I was eighteen years I entered the Social Democratic Party and as a result of that I was active and had honory positions at

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a relatively early age.

In the year 1905 I was counsellor in the City of Bielefeld. I belonged to the Reichstag from the year 1907 up until the year 1912 and I became a member of the Reichstag once more and a member of the Prussian Diet in the year 1919. I was in the Reichstag and in the Prussian Diet until the year 1933. I was Minister from the year 1920 until 1921, that is Minister of Prussia; then again from 1921 to 1926; from 1930 until 1933. Then in the meantime from the year 1928 until 1930 Minister of the Interior for the Reich.

H0137-0031

Q When and why did you leave public life?

A From official public life I took my departure in July of 1932; from political life at the time in which there was prohibition against the Social Democratic Party.

Q Were you, because of your leaving public life in 1933, or perhaps at a later date, were you arrested and, if so, at whose order?

A I was arrested on that day on which the Enabling Act was published in the Reichstag. This order for my arrest was signed by the then Minister of the Interior, Mr. Goering, who at that time was also president of the Reichstag, and, if I may utter an opinion, who would have had the obligation, as president of the Reichstag, to protect the immunity of the members of the Reichstag. Under the breach of this immunity I was arrested at the moment at which I entered the Reichstag building.

Q Mr. Minister, but you participated in the vote on the Enabling Act?

A The Chairman of the Social Democratic Reichstag faction had complain against the treatment which was accorded me, had complained to Goering, but this complaint had only the outcome that at the time of the vote I was not permitted to take replies. Then the Reichstag President Goering permitted me to say no as my vote for the Enabling Act.

Q You were arrested but briefly?

A On the next day I had to be present for a further interrogation. I was permitted to leave Berlin on the second day and had the instruction to be ready at my home in Bielefeld for further interrogations.

Q Mr. Minister, despite your well-known anti-Nazi position, you were not arrested later and put in a concentration camp -- that is as far as I know?

A I wasnever in a concentration camp, but that wqs a result only -- and I say this with all modesty -- of the respect which the old Prussian officials had for me. At the end of October of 1933 I heard from the Police Chief in Bielefeld that something was in the wind against me. The Police Administrator advised me that they would not be in a position to give me any protection and they advised me, therefore, to leave Bielefeld for several months. I followed this advice that they gave me from October, '33 until the end of March, '34, I lived in Berlin. I used a false name. First of all I

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stayed with friends; then I was in a small Jewish sanitorium in Wansee. Then in August of the year 1944 there was a further arrest imminent. The list of those who were to be arrested summarily -- that is the list of those men and women who were suspicioned of having plotted against Hitler in July, 1944, my name was on that list. One of my friends --

THE PRESIDENT: Did you say '44 or '34?

DR. SIEMERS: '44. After the attempted assasination of Hitler of July, 1944.

THE WITNESS: May I continue?

BY DR. SIEMERS:

Q Please do.

A After the attempted assasination of Hitler there was a directive given to the police which ordered certain people to be arrested. On this list issued in Bielefeld my name was to be found. Then one of the officials whom I knew from the past pointed out that I was close to my seventieth year of life and had lost my son in the war. By pointing out this fact, that I was almost seventy and that I had lost a son, he succeeded in crossing my name from the list.

Q Aside from the things you have just pictured to us now, did the National Socialists damage you or did you derive any detrimental effect from them?

A The further detrimental effects were that I was limited in my movements. I wasnot especially surprised that the postal service and the telephones were under control. I considered that asa matter of course. But I could not even take a trip without being followed and watched by the police. Mr. Minister, I should like to call your attention to the fact that I had material damage but besides that I had ideal damages, and those I received at the hands of the National Socialist Party after they assumed power I had many disadvantages that way. A political measure, which originated in the year 1932, was used against me, and I might say it was used against me in a criminal way. They talked about me as the "thief of millions", and this epithet was applied to my family and the members of my family.

THE PRESIDENT: Dr. Siemers, is this witness going to give any evidence

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which has relevancy to the Defendant's case?

DR. SIEMERS: Yes.

THE PRESIDENT: Well, bring him to it then as soon as possible.

DR. SIEMERS: Very well.

BY DR. SIEMERS:

Q Mr. Minister, try to be as brief as possible in this connection. It is of course true that you had ideal damages as well, but as the basis of my examination and your testimony I would like to ascertain whether there were tremendous damages which accrued to you and I would like to have you tell us, but briefly, whether National Socialism --

THE PRESIDENT: Dr. Siemers, what relevancy has that got to Raeder's case?

DR. SIEMERS: Mr. President, I should like to marshal my questions to this point, that through a brief description of the life of the Minister, as shown during National Socialist times, that he can answer the questions which deal with Raeder; that he can give objective answers about Raeder for, first of all, he had no advantages but rather disadvantages from the Nazis.

THE PRESIDENT: You have dealt sufficiently with the disadvantages now. Go to the matters which relate to Raeder. He has given us, from 1933 to 1944, a fairly general account of his life and that ought to be sufficient.

DR. SIEMERS: The prosecution accuses the Defendant Raeder, that in his capacity as Commander in Chief of the Navy he violated the Treaty of Versailles, specifically, with the intention of carrying on aggressive wars, and also, to do with behind the back of the Reich government. In order to shorten the proceedings and the testimony, I would just like to mention that this is a fact; we do not dispute this fact. It is a matter of history that Germany, in the development of her Navy, acted against the stipulations of the Versailles Treaty. These facts are known to the Tribunal. Even before this deadline, the then government decreed that an armored cruiser was to be constructed. About the construction of this cruiser there was a political debate, and in a debate before the Reichstag dealing with this cruiser the witness gave a speech. I have a brief excerpt from this speech which I should like to submit to you and which I should like to read. Mr. President, this is Raeder Exhibit No. 5, to be found in Document Book I, Page 13. This is an

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extract from a speech by the Reichsminister Karl Severing to the German Reichstag on the 20th of January, 1928.

BY DR. SIEMERS:

Q Mr. Minister, at this period of time you were not a minister. Rather, you gave this speech as a member of the Reichstag?

A Yes, that is correct.

Q The extract reads: "Now the armored cruiser. The fact that a government, which knows precisely what gigantic sums we must raise during the coming year, should make such demands, is, to say the least, very remarkable. It says, the Peace Treaty permits it -- yes, but the Peace Treaty also decrees the payment of reparations. The 93 million marks demanded for this year will play their decisive part only in their consequences and those consequences require several hundred million marks to raise, which during the next few years seems to me absolutely impossible. Considering the development of weapons for naval warfare, I am unconvinced also of the military value of armored cruisers. It may be that armored cruisers are the backbone of the defense at sea, as the government says. But, to form an active fighting unit, (Gefechtskoerper) a backbone must also be made up of other members, of U-boats and airplanes, and as long as we are not allowed to build these, armored cruisers are of very little value even for defence." Is that extract from the speech correct?

A Yes, that extract is reproduced correctly.

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Q Can you gather here that the Social Democrats and you, personally, at that time were ofthe opinion that the Wehrmacht which was granted Germany according to the Versailles Treaty might not be used for a defensive war because it was not large enough?

A That is correct.

Q Will you please comment on that a little more extensively.

A That the 100,000 army which was granted to Germany and which was not to be used for a defensive war everyone knew and everyone in Germany knows that today who was concerned with political things. It was a very bad situation that obtained for Germany, especially since the establishment of the corridor, and the position which was very bad, in her relation to her eastern neighbor. The insular position of East Prussia even at that time forced Germany to take measures which I saw and carried through with disagreement; but the population of East Prussia had a right to be protected against attacks which were threatening from the east. I'm not speaking about an aggressive war and I'm not speaking of theplans of the Polish Government, but I would like to refer you to the fact that in the years 1919, 1920 and 1921, there were groups in Poland who wanted to attack. They set foot on the German soil and possibly with the idea of --

THE PRESIDENT: This evidence is all a matter of argument. Not only is it a matter of argument, but we have had it over and over again from nearly all the defendants and a good many of their witnesses and, surely, it is not assisting the Tribunal in the very least to know what this witness said in 1928 or what view he took in 1928.

DR. SIEMERS: May it please the High Tribunal, I believe in the course of the testimony it will be shown that Minister Severing is a member of that government, a cabinet member ofthe 28th, and the government was carried through this cabinet andits meeting. I agree with the opinion of the High Tribunal that thesematters have been heard very frequently, but I should like to point out that Sir David even yesterday in cross-examination accused the defendant that, against the will of the Reich Government and against the wish of the organizations and despite the testimony of Raeder, he violated the Treaty of Versailles. Then, if

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after the testimony of Raeder, the Prosecution persists in their opinion, I have no other possibility to correct the inaptitude of the opinion of the Prosecution. The only way I have to do that is throughthe question - ing of the witness.

THE PRESIDENT: The question that the Treaty of Versailles was violated in a question of fact and, of course, upon that you can give evidence and you did give evidence through the defendant Raeder; but this witness is not talking about the question of fact. He is arguing that Germany was entitled to defend herself in violation of the Treaty of Versailles. That is what I understood his evidence to be and that is a question of argument, not a question of fact.

DR. SIEMERS: Mr. President, as far as I know --

THE PRESIDENT: Dr. Siemers, the class of evidence which has just been given by this witness will not be listened to by this Tribunal. If you want to prove facts by him, you can prove them, but you cannot prove arguments or his views upon arguments.

BY DR. SIEMERS:

Q Could Germany with her Wehrmacht protect herself against the attack in Silesia and Poland?

A In the year 1920 the Wehrmacht could not protect Germany in East Prussia; therefore, it was necessary to protect the population of East Prussia, and this was brought about in that I, personally, give my voice and agreed that all weapons which were found in East Prussia were to be given to the population. Under conditions which applied at that time, even for purposes of inspection, it was very hard to pass through the corridor even by rail; so that in the year 1920, I had to make a tour of inspection by way of water rather than land. I am mentioning this fact to show the difficulties of transportation through the corridor. I want to show thedifficulty. In the years 1920 and '21, it wasnot possible for theGerman Wehrmacht to prevent attacks of Polish insurgents in Upper Silesia and, I am sorry to say, and I emphasize "I am sorry", that a certain self defense had to be created in order to protect and defend German life and German property.

H0137-0037

Q Mr. Minister, Reichswehr Minister Groener, beginning with January, 1920, were the peasures which he wanted applying to armament based, as far as you know, on defensive or offensive basis?

A As far as I know, the way Groener carried on his office, everything that he did and carried through was based on the thought of defense.

Q This also applies to the armored cruiser. I should like to know why the Social Democratic Party, who was interested in the idea of defense, was against the building of this armored cruiser.

A The Social Democratic Party in the year 1928 was against the

H0137-0038

building of the armored cruiser for the economic situation did not warrant the making of any expenses which were not absolutely necessary. And the Social Democratic Party wanted to prove and to show that they could do everything within their power and they wanted to realize disarmament. They did not believe that the building of an armored cruiser would be a good gesture for the bringing about of negotiations.

Q Mr. Minister, on the 28th of June, 1928, a new Reich Government was formed. Moeller was chancellor; Stresemann was foreign minister, and you were minister of the interior. What position did your government take to the problem about disarmament stipulated in Versailles, disarmament by all countries as vs. the armament of Germany?

A I have already touched and asserted this problem. In the Social Democratic Party and after the entry of Moeller into the government, we were of the opinion that we would have to use all our efforts in order to solve just this problem. In September of 1928 the French Chancellor Moeller, as deputy of the Foreign Minister Stresemann, who was ill, went to Genova in order to bring this problem before the League of Nations meeting. Moeller gave a very definite and firm speech which, if I remember correctly, was received very cooly by allied statesmen; so that any practical suggestion for the realization of disarmament could not be hoped for.

Q Mr. Minister, in July, 1928, you spoke with Reich Defense Minister Groener about the buget and, specifically, about the fact that there were secret budgets and knowledge which had gone through the Wehrmacht about this dealing with the armored cruiser and so forth. What attitude did you take in this connection and what results came about on the basis of your agreement with Greece?

A In order to answer this question I would like to touch again on the extract from my speech, which you just submitted to the High Tribunal. In the same Reichstag session in which I gave this speech, Groener appeared for the first time as successor of Gessler. I had, as far as Gessler was concerned, given a few farewell words to him. I greeted the new minister with the remark that my political friends would show him respect, but that he would have to deem our confidence first, and on the basis of this remark Groener most likely replied to these remarks. When in the first session of

H0137-0039

Moeller's @overnment he approached me and said that he was looking forward to a collaboration with me, on that occasion I quoted a passage from Schiller's works, but between us there was to be truth and only on the basis of this truth and clarity it would be possible to bring about a working together on a collaboration.

THE PRESIDENT: Dr. Siemers, the Tribunal thinks that this is an absolute waste of time and this speech of the witness is entirely irrelevant. Why do you not ask him some questions which have some bearing on the case of Raeder?

DR. SIEMERS: Mr. President, may I remind you that it is an accusation on the part of the Prosecution that the rebuilding took place by using a secret budget and that a rearmament was carried on with the idea of carrying on wars of aggression later on. It is not quite clear to me how I can cross-examine him otherwise than what I am doing to show how in his government these secret budgets, which are practically identical with violations of the Versailles Treaty, how these secret matters were dealt with and that is the point on which I just questioned the witness.

THE PRESIDENT: This speech that you have drawn our attention to is simply a speech in which he said that he did not think that armored cruisers were of any use. That is the only meaning of the speech, except insofar as it refers to the fact that reparations had not been paid. For the rest it simply says that armored cruisers, in his opinion, are of no use.

DR. SIEMERS: Mr. President, I do not wish to plead my case. In the speech which I read something else is said. It says there that for economic reasons, the Social Democratic Party was against the building of this armored cruiser, not because of strategic reasons.

THE PRESIDENT: That would have nothing to do with a charge of making an aggressive war in 1939.

DR. SIEMERS: Mr. President, I did not raise the accusation of an aggressive war; the Prosecution did that, but I have to protect my client agains the fact that in 1928 he hadintentions of carrying on an aggressive war, and I assert that he had no intention of that sort and that the Reich Government knew about the violations of the Treaty, that the Reich Government took the responsibility for that, and the testimony of the Minister will show that these are actual facts.

THE PRESIDENT: Ask him some direct questions on issues of fact. Then the Tribunal will listen to them if they are relevant, but the Tribunal considers that the evidence of his speech that you have been dealing with is an utter waste of time.

DR. SIEMERS: I shall try to be brief.

BY DR. SIEMERS:

Q Mr. Minister, I will put single questions to you. Please answer them. You said that you demanded of Groener confidence and truthfulness. In this connection, did you ask for a clarification of the secret budget and violations of the Treaty of Versailles which had taken place up to that time?

A I asked especially for clarification since in January of 1928 the then Reichsminister Marx had agreed that under the leadership of Captain Lohmann in the Navy Department there had been a concealment of the budget, and that could not be in accordance with political decency, political sincerity or good bookkeeping.

Q What did Groener reply?

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A Groener then told me that he had the intention to discuss these matters at the cabinet meeting and to receive clarification on this point.

Q Were the leaders of the Wehrmacht to be present at this meeting?

A On 18 October these leaders were to appear and did appear.

Q Mr. Minister, when did you meet Grand Admiral Raeder?

A The first meeting, according to my recollection, was in the first few days of October, 1928, probably on the day when he paid me an official visit on my assuming office.

DR. SIEMERS: As Raeder exhibit Number 6, I submitted to the High Tribunal, as the High Tribunal will probably recall, a speech by Raeder dating to 23 January 1928. There was a covering letter with this document. This document will now be submitted to the witness.

BY DR. SIEMERS:

Q According tothis document, your meeting with Raeder was on 5 October 1928. Did it take place five days after the appointment of Raeder as commander in chief of the navy?

A This discussion probably took place on that day.

Q Just a moment, Mr. Minister. May I ask you to confirm to the High Tribunal that this discussion with Raeder was saved by you and that it is a true and authentic copy?

A The letter which I put at your disposal, Mr. Solicitor, is an original letter by Raeder. It is in accordance with the incidents which you just mentioned.

Q Then, on 5 October this conversation with Raeder did take place, and the conversations between you and Raeder, in its basic line, was in accordance with the thought of this speech?

A Yes.

Q Do you recall that in this speech, Raeder proclaimed specifically

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that a war of aggression was a crime?

A Yes, I remember that.

Q Did you on the occasion of this conversation tell Raeder that you had agreed with Groener that the violations of the Treaty of Versailles would have to be rectified and that a cabinet meeting would have to take place?

A I do not recall the details, but most likely, yes.

Q Did you demand of Raeder that between yourself and him there should have to be sincerity and truthfulness and clarity?

A Of Raeder as well, but especially of the Chief of the Land Forces.

Q On the basis of this discussion with Raeder, did you have the impression that you could work pleasantly and correctly together with Raeder and that he would tell you the truth?

A Yes, I had that impression.

Q And on October 18 1928 the cabinet meeting which we have already mentioned took place. May I ask you to describe that cabinet meeting, but briefly in case it is agreeable to the High Tribunal to have the witness picture this session. I believe that a description of this session would save time, rather than to have me ask single questions. Therefore, Mr. Minister, be brief in telling us what happened.

A At this session, members of the cabinet were familiarized with all those things which might be considered a concealment of the budget or which were violations of the Versailles Treaty. Both gentlemen, the Commander in Chief of the army and the Commander in Chief of the Navy, spoke.

Q I beg your pardon; did the entire cabinet attend?

A Yes, with the exception of one or two members who were ill, but it was a session at which all the most essential members were present.

Q Was Stressmann present?

A I cannot tell you whether Stressmann was present. He was ill in September and whether he had recovered by 18 October, I cannot say.

I may say, Mr. Solicitor, that if Mr. Stressman was not present, certainly someone else who was an authorized deputy from the Foreign Office was present.

Q Were Admiral Raeder and the Commander of the army present for this meeting and did they expressly give the asssurance--as I remember, an affidavit--that only those violations which were mentioned were the violations which had taken

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place?

A Whether that was set down in such a solemn manner as an affidavit, I do not know, but, in any event, at the request of the Reichschancellor and on my request, they said that no further violations would take place.

Q They assured you specifically that there would be no further violations without the knowledge of the Reich Government?

A Yes.

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Q And over and above that, they stated that now the cabinet know about everything?

A Yes.

Q Was that declaration made?

A Yes, that declaration was made.

Q Did these secret budgets which were violations of the Treaty of Versailles concern important and essential things?

A I was used to violations of the Versailles Treaty, and I was especially interested in the extent of the violations and the size and sum. I wanted to know what I could do in my new capacity against organizations which were not permitted, and I wanted to know what the total sum was that was involved. I was thereupon told--and I believe that this was set down and confirmed in writing later -- that perhaps five and a half to six million marks was the amount involved in the concealment of the figures.

Q Mr. Minister, do you remember the administrative figures as they applied in those days, and what can we gather from these figures? Can we show that they were tremendous violations with the intention of aggressive purposes, or can we gather that in the final analysis they were just trifling violations?

A I do not have the figures as they apply to the administrative plans of the navy and the army, and, therefore, I cannot quote the figures from memory, but my entire impression was -- I gathered from the army that trifles were involved. This impression was the one which caused me to assume a certain political responsibility for these things, and especially in this connection, since we were assured that further concealment of the budget or other violations were not to happen again.

Q Do you remember that Groener at this session declared that the small infringements of the Treaty concerned themselves purely with defenses, with flak batteries, with a strengthening of the coasts?

A I cannot give you the details today, but I might remind you that all the speeches which Groener made at the time when he was Defense Minister were along these general lines. In all of his speeches in the Reichstag, Mr. Groener expressly declared that he was interested in a happy pacifism. In answer to your question, Mr. Solicitor, I reply that Groener's statement, and I believe

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his directives, were based on defense and defensive measures.

Q At the end of this session, the Reich government took the responsibility for the infringements and the secret budget in a small scope?

A In the sense and in the scope that we have mentioned.

Q Then in the future, on the part of Raeder, did the Reich Government act according to these directives?

A I cannot answer that quite so positively, but I can say that the infringements of the navy against these agreements did not take place during my term of office as Minister of the Interior.

Q Are you of the opinion, since you know Raeder sufficiently well, that the promise that he made that he would not infringe secretly on the Treaty -- that he kept this promise?

A I had the impression of Raeder that he was a decent person, and I believed that he would keep his word.

Q Just one more question, Mr. Minister. Of course, you cannot remember the details, but do you perhaps recall that on the occasion of the cabinet meeting of 18 October there was discussion about a Dutch firm which was carrying on the construction of U-boats?

A The details about this question I cannot give you, but I do know that at that period of time, that subject was much discussed -- whether that was done in another cabinet meeting or in another meeting of parliament or another committee of parliament -- that experimental stations had been established for the army and the navy in Russia, Sweden and Holland.

Q Purely experimental stations?

A I can say only that there was talk to this effect. Whether these experimental stations had been established I cannot tell you from my own experience.

Q Mr. Minister, could Germany hope that some day, despite the Versailles Treaty, she would be permitted to build U-boats?

A The leading statesmen--

THE PRESIDENT: Dr. Siemers, how can he answer that there was a hope that they would be allowed to build U-boats? That is what your question was, was it not; was there a hope?

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DR. SIEMERS: I know, Mr. President, these questions were dealt with in the government which obtained through the years 1928 to 1932, and I believe that Stresemann carried on these discussions. Since Stresemann is no longer alive, I would like to ask Mr. Severing on this point.

THE PRESIDENT: That is mere political gossip.

BY DR. SIEMERS:

Q Mr. Minister, on whom did it depend that this was brought up in the Reichstag? Raeder is accused of acting behind the back of the Reichstag. Who submitted this to the Reichstag? Did Raeder do that?

A I do not quite follow you. Who submitted the budget, you mean?

Q Yes.

A The budget was submitted by the experts within the various ministries and was sent to the entire cabinet, and from the cabinet these suggestions as to the budget were put to the Reichstag.

Q The matter of dealing with the budget before the Reichstag was a matter for the Reich Government and not for the commander in chief of the navy, is that right?

A As far as the budget was submitted to the Reichstag, in the main committee of the Reichstag, the experts were responsible for bringing it to the Reichstag, but the responsibility was to the Reich Cabinet.

THE PRESIDENT: It was never alleged as to the defendant Raeder that he submitted it to the Reichstag; it was never put to him.

DR. SIEMERS: Mr. President, yesterday it was asserted --

THE PRESIDENT: Go on with any other questions.

BY DR. SIEMERS:

Q Do you recall whether at the end of 1929 you talked with a member of the government, with the various leading personalities in the Wehrmacht, and on that occasion made a statement which was publicized later by certain persons

A Yes, it is correct that on one occasion -- I might perhaps say after there had been a decrease in my respect for some personalities -- I named Groener and Raeder in this connection.

Q Mr. Minister, how many concentration camps do you know of?

A How many do I know of now?

A I am sorry; not now. How many did you know of before the collapse of Germany?

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A Perhaps six to eight.

Q Mr. Minister, did you know before the collapse of Germany, specially, did you know in 1944, about the mass murders which have been dealt with so frequently in this proceeding?

A I had knowledge of concentration camps and received this knowledge when this thing was going on. I heard of a few cases which touched me personally very deeply.

First of all, the police president of Altenau became a member of the Reichsbank. He was a Social Democrat who had rightish tendencies, and I was told that he was murdered in the concentration camp at Papenburg. Another friend of mine, the chairman of the Miners Union, Fritz Husemann, supposedly was murdered shortly after his being committed to the concentration camp, Camp Oranienburg, according to the reports received by his family.

Another friend of mine, Ernst Heimann, was beaten to death. Dachau was known even in the north of Germany as a concentration camp. Some Jewish inmates returned from Buchenwald in the spring of 1939, and in that way I learned of this camp. Columbia House at Berlin was considered as a concentration camp by me also.

This was up until the period of time after which the London radio reports about concentration camps. I received knowledge of these camps and atrocities. I received knowledge of these camps and atrocities. I perhaps might mention this as one case. In the year 1944 a freind of mine, who had been a member of the Reichstag, Herr von Meier, who had served three years in the penitentiary, was put into a concentration camp near Berlin. After a brief stay there, according to the report received by his family, he was murdered at this camp.

Q Mr. Minister, you just heard of these and similar cases?

A Yes.

Q You were not familiar with the fact that thousands were murdered every day in gas chambers or otherwise were murdered in the east?

A I believe I should tell the High Tribunal only of those cases which seem to me to be authentic according to my reports. Everything I learned of later was from reports, and these were indirect reports, also, of my friend Feger or from the book of the now General Langhof. All of these things I was

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told about, but it was not in my sphere.

Q Mr. Minister, did you and your Party friends have the possibility --

THE PRESIDENT: Dr. Siemers, are you going to finish this examination, or are you going on ? Do you see the clock?

DR. SIEMERS: Yes, I should like to leave the decision up to the High Tribunal as to whether we shall have a recess now.

THE PRESIDENT: Presumably you know what questions you are going to ask; I don't.

DR. SIEMERS: I cannot say exactly. It might take perhaps another ten minutes, your Honor.

THE PRESIDENT: Very well. We will adjourn now till a quarter past 2:00 o'clock.

(A recess was taken until 1415 hours.)

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File

AFTERNOON SESSION

(The Tribunal reconvened at 1415 hours, 21 May 1946.)

THE PRESIDENT: The Tribunal will not sit on Saturday morning.

Now, Mr. Dodd, could you tell us what the position is with reference to the documents of the defendants von Schirach, Sauckel, and Jodl?

MR. DODD: As far as von Schirach is concerned, we are waiting for a ruling on those documents concerning which we were heard on Saturday. I'm sorry, those were on Seyss-Inquart. I wasn't sure the documents were ready.

These documents are all ready; they are all translated and in book form.

THE PRESIDENT: Will it be necessary to have any further discussion of the

MR. DODD: I believe not, Mr. President.

THE PRESIDENT: Very well, then, we can take it that we needn't have another argument about those documents.

MR. DODD: No, sir, I comprehend no need for any further argument on von Schirach's documents.

With reference to Sauckel, I have asked our French colleagues what the situation is, since they have the primary responsibility as far as the Prosecution is concerned. I am told that Mr. Herzog of the French Prosecution staff is on his way here and he will be able to report more accurately.

THE PRESIDENT: Well, we can mention that at a later stage then. Schirach at any rate then, is ready to go on?

MR. DODD: He is ready to go on.

THE PRESIDENT: Very well.

MR. DODD: Sir David has the information about the defendant Jodl.

SIR DAVID MAXWELL FYFE: Mr. Roberts.

MR. ROBERTS: My Lord, the position with regard to Jodl's documents is that Dr. Jahrreiss produced to me a draft book, just before Easter, which had a certain number of documents, all except four of which had already been exhibited, and therefore no objection could be taken to them.

My Lord, the other four were all short. Two, I thought, were objectionable on the ground that they referred to alleged war crimes by one of the Allies. But, my Lord, they were so short that I thought the best course would be for

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them to be translated -- they were only a page or so, each of them, -- so that when the books had been translated any objection could be taken, and then the Tribunal could shortly decide the matter.

THE PRESIDENT: Well, as there are only four of them and only two which might be objected to, that can be dealt with when we come to hear the case.

MR. ROBERTS: My Lord, there are only two.

THE PRESIDENT: We needn't have any special hearing for it.

MR. ROBERTS: No, my Lord, certainly not. It can be disposed of in a very few minutes.

DR. EXNER (Counsel for defendant Jodl): Mr. President,

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I should like to say one word about these Jodl documents. We are having difficulty, you see, about one document. It is the affidavit of Dr. Lehmann, which we submitted in the German, but which was not translated into the English for us because it was said only such documents could be translated which the Prosecution had already accepted. The Prosecution expressed the view that they couldn't define their attitude on that document because it wasn't translated into English.

I have mentioned that in a brief application to the Tribunal, and I hope that the Tribunal will be good enough to deal with it.

MR. ROBERTS: My Lord, Lehmann's affidavit is very short -- it goes principally to character -- and it really is not objectionable, but I had to point out that it hadn't actually been allowed by the Tribunal in their order.

THE PRESIDENT: If it is accepted in the translation, that is all that is necessary.

MR. ROBERTS: My Lord, I entirely agree, and it is all on one page.

THEPRESIDENT: Yes, very well. Let it be translated.

MR. ELWYN JONES: May it please the Tribunal, it may be convenient for me to indicate to the Tribunal at this stage of Raeder's case that with regard to the witness, Lohmann, theProsecution does not now desire to cross examine the witness in view of the documents which are before the Court, and because of the fact that the matters his affidavit dealt with were dealt with yesterday by my learned friend Sir David Maxwell Fyfe, in his cross examination of Raeder, and finally, in view of the passage of time.

THE PRESIDENT: Do any other members of the Prosecution want to cross examine Lohmann?

MR. ELWYN JONES: No, my Lord.

THE PRESIDENT: Do any of the defendants' counsel want to ask any questions of Lohmann?

Very well, I understand that the witness Lohmann is being kept here and perhaps a message could be given to the Marshal that he needn't remain.

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M. HERZOG: Mr. President, I just wish to say in the name of the French Prosecution that I agree with the translation of the documents which have been prepared for the defense of Sauckel. I have no objection to the presentation of these documents, but the Court will be able to rule on them when they are presented. We have no objection to the documents being translated and presented.

THE PRESIDENT: Do you think it is necessary or desirable for there to be a special hearing with reference to the admissiblity or can that be done in the course of the defendant Sauckel's case? At the moment I apprehend that the documents have been looked at for the purpose of translation. They have now been translated. If you think it necessary that there should be any special hearing before the case beings, as to admissibility, we should like to know. Otherwise, they would be dealt with in the course of Sauckel's case.

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MR. HERZOG: I do think, Mr. President, that will be sufficient if the Tribunal wants these documents during the presentation of the case of the defendant. I do not think it is necessary to have a special hearing.

THE PRESIDENT: Very well.

KARL SEVERING -- resumed:

DIRECT EXAMINATION --- continued:

BY DR. SIEMERS:

Q Mr. Severing, as far as I have been able to ascertain, you have not quite clearly answered one of my questions. It referred to concentration camps and you said that you had heard of certain cases and that you have heard of individual cases. So that there isn't any misunderstanding, I just want to ask you in conclusion, did you hear of the mass murders which have been mentioned in this trial, whereby at Auschwitz an average of from two thousand persons a day were killed in gas chambers. Did you have that knowledge before the collaps or did you not know nothing about that either.

A These mass murders which didn't become known in Germany until the collapse of the Hitler regime, partly through the press and partly through the trial, I know nothing of them.

Q Minister Severing, what could you and your friends in your party do when the Nazis were in power, against the National Socialist terror, which you have mentioned, and did anyone support you in any way in this connection?

A If I can define your question, the question of what my political friends and I could do after the 30th of January to fight against the Hitler regime, then I must say little. If there was a question of resistance against the Hitler regime, then that resistance wasn't any centrally organized resistance; it was confirmed to an action whereby in certain towns the opponents of the Nazis united to seek out ways and means whereby it might at least by means of propaganda fight against the National Socialist terror but an open resistance wasn't possible; but perhaps I may draw your attention to this at this point: On the 30th of January, I myself, made an attempt which, in my opinion, might have been decisive, to fight against the Hitler regime. In the autumn of 1931, I had a conference with the chief of the army staff, von Hammerstein, during which he told me that the Reichsfuehrer of the armed forces wouldn't allow it; that Hitler

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would occupy the chair of the Reichspresident. I remember that conference and on the 30th of January 1933, I had the question put to von Hammerstein, whether he would be willing to have a talk with me. I wanted to ask him during that talk whether he was still of the opinion that the armed forces would not only talk against Hitler's regime but would in fact fight against it and in not much time had the reply given to me, that principly he would be prepared to have such a conference with me but that the moment wasn't suitable, so that conference never took place. If you ask me if my political friends made efforts to fight at least with propaganda against this regime and whether they had any support from foreign personalities which one might have regarded as anti-Fascist, then I must oblige you unfortunately not -- to the contrary, with great grief, we quite often noticed that members of the British Labor Party, not officials but private persons, were Hitler's guests and that they returned to England to praise Chancellor Hitler as a friend of peace. I mention Phillips Newton in that connection, and the Senior Chief of the Labor Party, Flensbury. May I perhaps draw your attention in this connection to the following facts?

THE PRESIDENT: I don't see what this has to do with the attitude of political parties. The attitude of political parties in other countries has nothing to do with any question we have to decide, absolutely nothing.

DR. SIEMERS: I believe that this will do and I have no further questions to this witness, Mr. President.

DR. LATERNSER: Dr. Laternser, Counsel for the General Staff and the OKW.

BY DR. LATERNSER:

Q Minister Severing, during the time you were in office, was there a case when the 100,000-men army which was granted by the Versaille Treaty was exceeded?

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A I have no official knowledge of ot but i would assume that this is not the case.

Q Do you know whether at the end of 1932, the League of Nations made a promise or actually gave permission that this army of 100,000 mencould be increased to 300,000 men?

A I can't give you any official information on that either but I can give you the following explanation: In 1932, I received a letter from my party friend Dr. Rudolf Breitscheid, who was a member of the League of Nations Delegation a in which he mentioned rumors of that type. This information, he added ----

THE PRESIDENT: Dr. Laternser, we don't think that rumors are relevant in the trial. He says he can't give us any official information. He then begins to give us rumors. We don't want to hear rumors.

DR. LATERNSER: Mr. President, the statement the witness is about to make will be something more than a rumor and I think you will probably be able to judge it when he has answered the question completely.

THE PRESIDENT: He is speaking of rumors. If you have any fresh question ask him, you can ask it.

BY DR. LATERNSER:

Q Did the enlargement, the increase of the army from 100,000 to 300,000 men, did it ever reach any concrete shape. did it ever go beyond discussion?

A I just told you that Dr. Breitsheid was a member of the League of Nati Delegation and that his information to me wasn't invented. That information sa that an enlargement of the army was proposed but that this enlargement would probably happen at the expense of the police; that is why Dr. Breitscheid informed me of the matter.

DR. LATERNSER: Mr. President, I have no further questions.

DR. KARL HAENSEL: Karl Haensel, counsel for the SS.

BY DR. HAENSEL:

Q Minister, you have just mentioned that you have no knowledge of the murdering of Jews in Auschwitz before the collapse. Do you have any knowledge any other murders and perpetrations against Jews which you would describe as being criminal?

A I have experienced such cases personally. In 1944, a friend of mine M. Bielefeld was arrested and transferred to a labor camp at Emden and he was sh on the third day.

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Q Do you know who arrested him, which type of authority?

A He was arrested by the Gestapo at Bielefeld.

Q Was that in connection with large-scale action or an individual case?

A It seemed to me to be an individual case.

Q Do you know of more such individual cases at that time in 1944?

A In 1944, I did not hear of any individual murders but I heard of transports from Westphalian towns.

Q Which authority, which official body dealt with these transports?

A I can't tell you for certain but I assume the secret state police.

Q Is it your opinion that considerable sections of the population would have had knowledge of such occurrences?

A You mean transports?

Q Yes.

A They usually happened quite publicly.

Q and are you of the opinion that the same people might have had knowledge just like the members of the organizations, let us say, for instance, the SS men or would you say that the ordinary SS man would have had no more knowledge than the population?

A Yes, because he knew where these transports were going to.

Q But the way I understood you, I thought that you didn't describe the transports as being carried out by the SS; you said "Gestapo."

A Yes, I told you that I assumed that the Gestapo carried out the arrests and the collections of these people but I didn't talk about the transports and I didn't say that I was assured of the certainty of my assumption that it was exclusively done by the Gestapo.

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Q What measures, apart from such transports, were there? Was there a local pogrom, for instance? If I understand you rightly, you didn't hear of that frequently.

A Locallpogroms happened in November 1938.

Q Did you, during such measures which we have discussed quite frequently, make observations of your own, or were you at home?

A I was at home. I only saw the effect of these pogroms afterwards. I saw the destroyed Jewish businesses. I saw the wreckages of the synagogu

Q And to which organization or group would you attribute the events of November 1938?

A That would be my own judgment, but I will tellyou quite openly: the SA and the SS.

Q And why did you just draw that conclusion, that these two groups did it?

A Because the members of these two groups in Bielefeld -- that is my home town -- were regarded as the originators of the fire of the synagogue.

Q By whom?

A The population in General. They were named.

Q You know about the concentration camps. Can you still remember when for the first time -- and it is important that I know at least the year they were talked about?

A No. I cannot at the moment tell you that. I can only reply to that in connection with the various dates. The first murder in a concentra camp became known to me when I heard that in the concentration camp at Papenburg the former member of the German Reichstag and police president of Altenau was shot. That may have been either 1935 or 1936, I am not sure.

Q And later did you hear of numerous such cases, or did you have personal knowledge?

A My own knowledge, that means that I would be so certain that I cou submit it to this Tribunal as material, are those cases which I have mentioned this morning.

Q Were you told that concentration camps were places where the political opponents of the regime were to be accommodated without anything

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further happening to them except deprivation of their liberty?

A Whether I was told that?

Q Were you told that?

A No. To the contrary, I have heard that concentration camps meant to the population the very incarnation of all the terrible.

Q What do you mean by "population"? Do you mean those sections of the population who had some official connections to the Party too, small men, members of the Party, the smaller SA and SS men?

A I can't say anything about that, because I dealt exclusively with the opponents of the regime, you see.

Q Do you believe that these opponents to whom you talked were united in a front against anything, anyone who would carry the Party emblem?

A On that question which you are now touching upon you are talking about large sections of the population and their humane feelings. Their humane feelings had already become known.

Q But, you see, my question was this: Wasn't that discussed in the cases of people who were bearing the Party eagle?

A Well, I assume so, but I can't submit that to the Tribunal as a fact.

Q These people, did they find themselves under that pressure which you have mentioned?

A They probably felt that through being members of the Party they were somewhat immune.

Q Do you believe that a lot of people became members to come into that more favorable and immune position?

A I believe so, yes.

Q I heard that you yourself were a member of the N.S.V.; is that true?

A No.

Q Is it true that you were arrested after the 20th of July 1944?

A I have already answered that question this morning. I was not arrested.

Q You weren't arrested at all?

A No, with the exception of the case which I have also told you this morning.

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Q Did you at any time say that the things which were being done in the social sector in Germany were to a considerable extent the ideal form of government?

A Yes, but the way I expressed it was this: What was new wasn't goo, and what was good wasn't new.

Q Do you believe that a German, no matter whether a Party member or a member of the SS or not, would have known of the events at Auschwitz of which you yourself didn't have any knowledge? Would he have to have knowledg

A He wouldn't have had to know. No, I wouldn't go as far as that. I sawhe could have.

Q And how do you think he could have had that knowledge?

A Through the members of the transport guards, who weren't always in the concentration camps. They came back.

Q But if they were sworn to secrecy --

A Then they couldn't tell anything.

Q Do you know of cases where people were sentenced who had told such stories?

A No.

Q Do you know of the activities of special courts? Have you heard of them?

A No, at least not in connection with this particular thing.

Q But it was in the papers. There were sentences against people who listened to false statements, or against people who were spreading such rumors. Haven't you heard of that? Didn't you read of them?

A No.

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DR. STEINBAUER: Dr. Steinbauer, for the defendant Seyss-Inquart.

BY DR. STEINBAUER:

Q Witness, I have only got one question which I want to put to you. You told us this morning that in 1919 you were a member of the National Assembly at Weimar. May I ask you which position that National Assembly had, and in particular that faction of the Social Democrats which you had led, and what their attitude was toward the Austrian Anschluss.

A During the time when the National Assembly met at Weimar, I was the Reich and State Commissioner in the Rhineland and Westphalia. I was only rarely present during the negotiations of that assembly. I do not know in detail, therefore, how these matters were formulated or expressed. But one thing I do know, and that is that it was the almost united wish of the National Assembly that a paragraph or article should be included in the Constitution which would carry out the Anschluss of Austria, which would carry out that Anschluss to Germany.

DR. STEINBAUER: I have no further questions.

THE PRESIDENT: Does the Prosecution wish to cross examine?

BY MR. ELWYN JONES:

Q Herr Minister, you have told the Tribunal that in 1928 the defendant Raeder assured you solemnly there would be no further violations of the Treaty of Versailles without the knowledge of the Reich Cabinet. Did Raeder fulfil that assurance?

A I have already stated this morning that in that positive manner I can't answer that. I can only say that violations of the agreement of the 18th of October 1928, as far as the Navy is concerned, are not known to me.

Q Did you know, for instance, of the construction in Cadiz in Spain of a 750-ton U-boat under German direction between the years 1927 and 1931?

A No, no.

MR. ELWYN JONES: My Lord, the authority for that statement of fact is the Document D-854.

BY MR. ELWYN JONES:

Q And, Herr Minister, did you know that after its completion in 1931 that U-boat carried out trial runs under German direction and with German personnel?

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A No, I didn't know anything about that, either.

THE PRESIDENT: I think he said he didn't know of any violations.

BY MR. ELWYN JONES:

Q I am putting to you certain matters, and I suggest to you, Herr Minister, that it may well be that you were being deceived during this time. Do you agree with me about that?

A I wouldn't deny deception, but I can't confirm it either. I can only tell you that I didn't know of the construction of a submarine.

Q I want you to look at the document C-156. This is a new extract from Captain Schusler's "Fight of the Navy against Versailles." The entry is on pages 43 and 44 of that book. You will see that the following entry appears on pages 43 and 44.

"In 1930 Bartenbach succeeded in laying the foundations in Finland also for the construction of a U-boat corresponding to the military demands of the German Navy. The Naval Chief of Staff, Admiral Dr. (h.c.) Raeder, decided, as a result of the reports of the Chief of the General Naval Office, Rear Admiral Housiger v. Waldegg, and of Captain Bartenbach, to supply the means required for the construction of the boat in Finland. A 250-ton plan was chosen for this boat, so that the amount of 1½ million Reichsmarks was sufficient for carrying out of the project.

"The fundamental intention was to create a type of boat which would permit the inconspicuous preparation of the largest possible number of units which could be assembled at shortest possible notice."

Now, Herr Minister, did you know that one and a half million Reichsmarks were spent in 1930 in connection with that U-boat construction?

A I have stated this morning that in the Reich Ministry of the Interior I was a minister from 1928 to 1930. I think it is necessary that these dates should be more carefully defined. I left on the 30th of March 1930, and if the era of 1930 is generally mentioned, then it isn't impossible that everything that is mentioned here happened after the 30th of March 1930.

Q You have said that the rearmament that went on when you were connected with the Government of Germany was purely defensive. When did you realize that the Nazi Government's rearmament was not defensive but aggressive? At what date did you come to that conclusion?

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A On the 30th of January 1933, and thereafter. When Hitler became Reich Chancellor, I was aware that this was war, at the same time considering my political views.

Q So that you realized from the first day of Nazi power that the Nazi Government intended to use force or the threat of force to achieve its political aims; is that right?

A I don't know whether to know and to be convinced is identical. I was convinced of it, and so were my political friends.

Q I want to ask you one or two questions about the defendant Papen. Did Papen use force in carrying out the Putsch which brought him to power in July 1932?

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A Personally, von Papen didn't exercise such force, but he ordered it. When on themorning of the 20th of July, 1932, I refused as Chief of the Prussian Ministry of the Interior to surrender the office to the successor who had been nominated by von Papen, I told him that I was not willing to do so. And, so asto give emphasis to my protest, I also stated that I would only give way to force. That force was applied on the evening of the 20th of July in my office. The newly appointed Police President of Berlin appeared, accompanied by two police officers. I asked these gentlemen whether they were sent by the Reichspresident or the Reich Chancellor and had been giventhe power to carry out this execution. When they answered with "yes," I stated that -- so as not to give the order for blood shed -- I would leave my office.

Q Did the defendant Papen, when he secured power, purge the police and the government of anti-Nazis?

A There are numerous indications that the intention existed that the police should be cleared of anti-Nazis and that other men were to be brought into the police, men who suited Papen, who were devoted to von Papen, and, later, the National Socialists.

Q I want to ask you one or two questions about the defendant Goering.

The defendant Goering has stated, and the entry on page 5837 of the transcript of the proceedings, that the institution ofprotective custody existed in Germany before the Nazis came into power. Is that true?

A The institution of protective custody existed, I would say, in theory, and it was in the Police Administration Law, in Paragraph 15. As far as I can remember, the application of protective custody never did happen, however, while I was in office. The regulations contained in Paragraph 15 of the Police Administration Law did state definitely, however, that if some one was to be taken into protective custody, then the Administration was obliged to bring him before a judge within 24 hours.

That is in no way identical with that protective custody which, foryears, was decreed against peaceful members of the State by the Nazi regime.

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Q And, of course, there were no concentration camps in pre-Nazi Germany, I take it?

A Never.

Q How many of your political associates and colleagues of the Social Democratic Party were murdered in concentration camps while Goering was still Chief of the Gestapo?

A The estimate is very difficult to make. You might say 500, and you might quote 2,000. Reliable information is now being collected My estimate is that at least 1,500 Social Democrats, or members and functionaries of trade unions, or editors, were murdered.

Q And how many Communist leaders do you think were murdered during Goering's period of power over the Gestapo?

A I would assume that if you include among Communist leaders also the functionaries of trade unions, who called themselves members of the Communist Party, then some similar figure would probably come up.

Q Did Goering personally have any knowledge of these murders?

A That I cannot say. If I were to answer that question, then I have to ask myself what I might have done in a case where it was one of my duties to administer camps in which the fate of tens of thousands was being decided. I am not sure whether this is of any interest to you, but I might give you one or two examples from my own experiences.

In 1925 I had to create a camp for refugees from Poland.

Q You need not trouble to go into that, Herr Minister.

A At any rate, I would have considered it my foremost task that, in camps which I had installed, there should be inquiries made to find out whether the principles of

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humanity were being adhered to. It was not my impression that that was done. My police officials always had their attention drawn to it that everyone in those camps should be humanly treated. I told them that never should the call again be heard in Germany, "Help against police."

Arr est orders were issued by me against members of the police when I had the impression that defenseless prisoners were ill-treated by members of the Protective Police.

Q As Minister of the Interior, did you become familiar with the organized terror of the SA against the non-Nazi population of Germany during the years after 1921?

A The observation of the so-called armed organizations, during the years of my office, was one of my most important tasks. The mughest organization of all these turned out to be the SA. They were the rowdy battalions and, with the arrogance with which they sang their songs, they forced themselves into the streets. They clared the streets for themselves where there was no opposition for them.

Another part of their program was rough songs. One of their songs was: "Put the bigshots and the Jews against the wall and fight them."

Wherever the SA could exercise their terror unhindered, they acted in such a manner. They had indoor battles against people who thought differently. Those weren't the ordinary little fights between political fighters during election fights. That was organized terror.

When the first Jewish boycott occurred in 1933, they stood guard to prevent those members of the population from buying in Jewish shops, when they had been accustomed to buying there. As it may be known to the Tribunal, they carried out the terror of the 8th of November, 1938, and organized it.

Also, in 1930, they damaged numerous Jewish shops in Berlin, perhaps as an introduction for the meeting of the Reichstag which, at that time, as is known, was entered by the National Socialists to the extent of 107 members.

Q Finally, I want to ask you one ortwo questions about the defendant Schacht.

When did you first discover Schacht's relations with the Nazi leaders?

A In 1931 I had information from the Police Administration in Berlin that there had been talks between Mr. Schacht and the leaders of the National Socialist German Workers Party.

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Q Did you have any connection with Schacht in 1944?

A If you are interested, I actually refused to have such connections. Schacht, as far as political matters were concerned--and although I held him in highest esteem as an economic expert--was known to me as quite an uncertain character. Through becoming a member of the Habsburg Party, Schacht betrayed the cause of democracy. That wasn't only an act of ungratefulness, because the Democrats helped him to the post of President of the Reichsbank, but it was a great mistake because he and others, who participated in the Habsburg Front, helped the National Socialists into their positions and made them appear respectable.

Any connections with Schacht with reference to the 20thof July 1944, were, therefore, not acceptable to me.

When, in the autumn of 1943, there were certain attempts made to bring me into a group which was to overthrow the Hitler Government, I said, because of Schacht and other circumstances, I refused to enter.

Q What was your reason for that?

A I just hinted; there were reasons. My friend Neuster and, among other Social Democrats, Leuchtner, Weber, and Mass, and I, discussed the composition of such a government. Leuchtner informed me that probably a general should become the President of the Reich, and another general the Minister for War. I pointed out that, quite probably, Schacht would have to be given the role of financial or economic dictator because, earlier, Schacht's suitability

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for such a post was meant to be proved, and his actual or possible connections with American business circles were to be investigated.

These connections of Schacht, to use National Socialist words, between plutocracy and militarism, appeared to me against the cause of democracy, and in particular against Social Democrats. That appeared to me so compromising that I was under no circumstances willing to be a member of a cabinet in which Schacht might be financial dictator.

MR. ELWYN JONES: Thank you.

THE PRESIDENT: Did you wish to re-examine?

REDIRECT EXAMINATION

BY DR. SIEMERS:

Q Minister Severing, the prosecutor has just talked about the construction of a U-boat in Finland and the construction of a U-boat in Cadis. With regard to the construction of the U-boat in Cadis, he has referred to D-854. I presume that this document is unknown to you.

THE PRESIDENT: Well, Dr. Siemers, the witness said he knew nothing about either of those instances.

DR. SIEMERS: Thank you.

BY DR. SIEMERS:

Q Can you not remember that between Grand Admiral Raeder and Reichswehrminister Gröener--during that discussion--that Finland U-boat was mentioned?

A I do not remember.

Q A principle question, please. Is it true that the agreement which was made on the 18th of October, 1928, meant that the Chief of the Naval Command Staff had the duty of informing the Reich Armed Forces Minister and that he, the Reichswehr Minister, in turn, had the duty of informing the other members of the Cabinet?

A As far as I remember, the agreement or the promise of the two chiefs of the Army Command was that the Cabinet should be kept informed about every question. That was technically possible only in the manner which I have just indicated, that is to say, that the Minister would

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first of all, be informed. Then he, in turn, would pass this information on to the Cabinet.

Q So that there was no duty on Raeder's part to currently inform you or report to you or appear before the Cabinet?

A That would have been quite an unusal measure, and the meeting of the 18th October was unusual; the members of the Cabinet were either only ministers or their representatives.

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Q So that technically the matter would be handled through the Reichswehr Minister?

A Yes, and politically through the Cabinet.

DR. SIEMERS: Thank you very much. I have no further questions.

BY DR. KUBUSCHOK (counsel for defendant von Papen):

Q What legal regulation was the basis for the removal of yourself from the Ministry of the Interior?

A The release?

Q The release, yes.

A It was Article 48.

Q Who, based on Article 48, issued emergency decrees?

A It was done by the Reichspresident, who alone was entitled to do so.

Q The fact that, on the 20th of July, under the circumstances which you have described, you were removed from office -- was that based on the fact that von Papen and Hindenburg, who were giving these orders, had the view that the emergency decree was legal, whereas it was your point of view that a legal basis for the emergency decree did not exist, and that, consequently, you remained in your office?

A I wasof the opinion, which was later confirmed by the Reich Court, that the Reichspresident had the power, through Article 48,to issue decrees for the maintenance of calm and order. If Prussian Ministers, and particularly a police minister, did not give him sufficient guarantee for this peace and order and its maintenance, then he had the right to relieve us of our functions. That was particularly true of the police, but any other executive measures as well.

He did not have the right, however, to release us or discharge us as ministers.

Q Is it known to you that the highest court in Germany, the State Court, on the 25th of October, 1932, made a decision according to which the decree of the Reichspresident of the 20th of July, 1932, was correct under the Constitution in so far as it appointed the Reich Chancellor as Reich Commissioner for Prussia and in so far asit deprived Prussian Ministers of certain powers which the other was to take over himself?

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A I have just quoted that order.

Q Right. Then one more question: Did von Papen as Reich Commissioner at the time he carried out certain personnel changes bring National Socialists into the police force?

A That isn't known to me. The political character of the police officials couldn't outwardly be recognized. That was the case with government presidents, police presidents, but not in the case of every protective police official.

(Short interruption due to mechanical difficulties.)

Q Is it correct that the post of the president of the police in Berlin was filled by von Papen with the former police president of Melcher, Essen, who even in your time was the police president in a large area?

A That is correct.

DR. KUBUSCHOK: Thank you.

THE PRESIDENT: Now, then, the witness can retire and the Tribunal will now adjourn.

How many more witnesses have you got?

DR. SIEMERS: I now have the other witnesses, von Weizsaecker and Admiral Schulte-Moonting. Schulte-Moonting will take a little longer, whereas Weizsaecker, as far as I am concerned, will be very short.

THE PRESIDENT: All right.

(A recesswas taken.)

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DR. SIEMERS: If it please the High Tribunal, I should like to call my next witness, Freiherr von Weizsaecker.

ERNST VON WEIZSAECKER, a witness, took the stand and testified as follows:

BY THE PRESIDENT:

Q Will you state your full name, please?

A Ernst von Weizsaecker.

Q Will you repeat this oath after me:

I swear by God, the Almighty and Omniscient, that I will speak the pure truth and will withhold and add nothing.

(The witness repeated the oath.)

THE PRESIDENT: You may sit down.

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H0137 - 0071

DIRECT EXAMINATION

BY DR. SIEMERS:

Q Mr. von Weizsaecker, at the beginning of the war you were State Secretary in the Foreign Office, is that correct?

A Yes.

Q You will recallthat on the 3rd of September, 1939 -- the first day of the war between Germany and England -- the English passenger ship Athenia was torpedoed northwest of Scotland. On this ship there were American passengers. The sinking of the ship naturally drew a great deal of attention, and I should like to have you tell us how this matter was treated politically, and especially through you.

A I remember this incident. I am not certain, however, whether it was a British or an American ship. In any event, this incident alarmed me greatly at that time. I inquired of the SKL to determine whether a German warship was guilty in any way in the sinking. After I received the answer, "No," I spoke to an American, Mr. Alexander Kirk, and told the American charge d'affaires that a German man-of-war had not participated, was not guilty in the sinking of the Athenia. I asked the charge d'affaires to take cognizance of this fact and to cable to Washington as soon as possible to the effect that any such report was very important in our joint interests, that is, in the interests of Germany and America.

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Q Mr. von Weizsaecker, you had been in contact with the Navy before taking these steps?

A Yes.

Q Did you, at this first conversation, speak with Grand Admiral Raeder himself or did you speak with some other officer?

A That is impossible for me to say, but I did receive the information. I am sorry I can't tell you as to this detail, but I did receive the answer that there was no German man-of-war involved and that satisfied me.

Q In connection with this affair, either on the same day or shortly thereafter, did you visit Grand Admiral Raeder and discuss this matter with him

A I believe I recall that, yes.

Q Did Raeder on this occasion tell you that it could not have been a German U-boat since the reports coming in from the U-boats were to the effect that the distances were too great, that the distance would have been about 750 miles?

A Raeder informed me to the effect that it could not have been a German U-boat. The details about the distance involved, the distance from the point of the sinking and the presence of U-boats, this may have been a fact which he mentioned, but I cannot tell you this with certainty today.

Q At this conversation with Raeder, did you, as well, talk about the fact that everything would have to be done in order to avoid a war with the United States, such as referring to incidents like the Lusitania in the first World War?

A Most certainly, yes, with emphasis, for at this time I recalled similar incidents from the First World War and I remembered these incidents very clearly. I called his attention to the urgent necessity to avoid any operation at sea which might in any way expand the war and, as I said in those days, any action which would have decreased the neutral substance.

Q Did Raeder agree with your opinion?

A To my firm recollection, yes.

Q Are you convinced, Mr. von Weizsaecker, that Raeder gave you truthful reports about the Athenia?

A Yes, of course.

H0137 - 0073

Q Now, on the 27th of September 1939, U-boat No 30 returned from its mission; that id it returned about three weeks after the sinking and the Commandant reported that by mistake he had sunk the Athenia. He reported that he did not notice his mistake right away but afterwards through the various wireless messages. Now at the end of September Raeder heard of this fact and discussed this matter with Hitler in order to determine what the course of action would be from mow on. Hitler gave the decree to keep quiet, to maintain silenc Of course, all of these matters have been discussed here already, and I would like to have you tell me whether you knew of these facts which were subsequent established; that is the sinking through a German U-boat, whether you received any knowledge of that?

A No, not at all.

Q Did you jear of Hitler's decree that you maintain silence; did you h about that?

A No, not about that either.

Q Now, I should like to submit to you Document No 3260 PS and I should like to have you look at it. This is an article entitled "Churchill Sinks the Athenia". That is taken from the Voelkischer Beobachter on the date of the 23r of October 1939. Do you recall this article?

A Yes.

Q I should like to have you read it first.

DR. SIEMERS: Mr, President, in order to assist the High Tribunal, I woul like to state this is GB 218. It is found in Document Book No 10, British Document Book 10, page 97, correction, page 99.

BY DR. SIEMERS:

Q Mr. von Weizsaecker, you have read this article and I should like to have you tell us whether you recall this article, whether you recall having re it at the time?

A I do recall that this article appeared at that time.

Q Then will you please tell me what was your attitude at that time whe you heard about this article?

A I considered it as a piece of perverse imagination.

Q Then you condemned this article?

A Naturally.

Q Even though at that time you did not know that it was a German U-boat that sunk the ship?

A The question of whether it was a German U-boat or not

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could have nothing to do with my judgement of the article.

Q Then you considered that this article should be condemned even if it had not been a German U-boat?

A Yes, of course.

Q The Prosecution asserts that Grand Admiral Raeder was responsible for the bringing about of this article and is accusing him very gravely on moral counts because of it, and the accusation is especially grave since, as we have seen, Raeder -- and contrary to your testimony -- at this time knew that it was a German U-boat which sunk the Athenia. Do you consider an action like this on the part of Raeder as possible?

Do you think that it might be --

THE PRESIDENT: Dr. Siemers, you can only ask the witness what he knew and what he did. You can't ask him to speculate about what Raeder did.

DR. SIEMERS: I beg your pardon, Mr. President. I believe that, according to the affidavit of Dietmann this morning, it would be possible for the witness to state his opinion; but I will dispense with the asking of this question.

BY DR. SIEMERS:

Q Mr. von Weizsaecker, did you at that time hear that Raeder was responsible for this article?

A No, I did not hear that and if I had I would never have believed it. I consider that was out of the question entirely, that he would have been responsible for an article like that or would have written an article like that.

Q To your knowledge, could this article be traced back to the Propaganda Ministry?

A I can only answer that question negatively. It is not to be traced back to Raeder and not to the Foreign Office.

Q Mr. von Weizsaecker, are you in a position to judge, as far as the well known violations of the Navy against the Treaty of Versailles, were especially grave points involved?

A I can only answer that question indirectly. I do not know the details but I consider it practically inconceivable that there may have been grave infringements for just the sector of the Navy. As for the keeping of the Stipulations of the Treaty by the Navy, we can check the records of the Navy very easily.

H0137-0075

One cannot build ships without their being seen. Therefore, I must assume that these violations were of an insignificant nature.

Q Mr. von Weizsaecker, in your opinion, did the Defendant Raeder prepare a war of aggression or do you know of any concrete case from which the attitude-

THE PRESIDENT: Dr. Siemers, that is the very charge against the Defendant Raeder which the Tribunal has got to decide.

BY DR. SIEMERS:

Q Mr. von Weizsaecker, in February, 1939. were you on a train from Hamburg to Berlin together with Grand Admiral Raeder and did you discuss matters with him?

A Yes.

Q What was the reason for your conversation and what was the topic of your conversation?

A It is correct that together with Admiral Raeder I travelled by train from Hamburg to Berlin. I met him after the launching of a ship in Hamburg. On this occasion the Admiral told me that he had just given a report to Hitler and in this report he said he had made it quite clear that the state of armament, so far as the Navy was concerned, would prohibit a war against England for years hence. I believe that that is the answer to the question you are asking me.

H0137-0076

Q That was in February, 1939?

A It was the launching of the ship "Bismark".

Q Then it is known to the High Tribunal for this launching is set down in the record.

A It must have been in the spring, in February or March.

Q At that time, through this declaration on the part of Raeder, did that have a calming influence on you?

A I considered this declaration on the part of Raeder very pleasing.

THE PRESIDENT: Well, we do not care whether it had a calming influence on him or not.

Q In your opinion, did Raeder speak as a naval expert or as a politician and did he have an influence on Hitler and in which way?

THE PRESIDENT: Dr. Siemers, the witness can tell us what Raeder said, but he really cannot tell us in what capacity he was speaking, whether as a politician or an admiral. If youwant to know whether he had his uniform on --

Q Mr. von Weizsaecker, did you have any discussion with Raeder or with other personalities as well?

A What about?

Q About the influence of Raeder on Hitler.

A It is known to me that political arguments set forth by soldiers hardly had any influence on Hitler, except perhaps in a technical sense and along those lines an influence might have been effective.

Q Mr. von Weizsaecker, in the winter of 1938 to '39, the usual diplomatic dinner took place in Berlin and, to my knowledge, you were present at this dinner. On this occasion Raeder spoke with Sir Nevile Henderson about the question of the --

THE PRESIDENT: Dr. Siemers, why do you not ask him instead of telling him. You are telling him what happened.

DR. SIEMERS: No.

THE PRESIDENT: Yes, you are.

DR. SIEMERS: I beg your pardon, Mr. President. This conversation was not a conversation between Henderson and von Weizsaecker.

BY DR. SIEMERS:

Q I am asking you, Mr. Wiezsaecker, did you have any conversation to

H0137-0077

that effect with Sir Nevile Henderson or with other British diplomats or do you know anything about the attitude of those British diplomats?

A I cannot recall having spoken with British diplomats about the colonial question. On the other hand, I do know that in the years '34 to '39 the colonial question was repeatedly treated by the British Government either officially, semi-officially, or pari-officially and it was an accommodating attitude. I do believe that I recall that in the record dealing with the visit of two British gentlemen that I read this record and that on this occasion, as well, the colonial question was dealt with in an accommodating manner.

Q Mr. von Weizsaecker, can you tell us anything about the demeanor or the action of the navy during the Norwegian occupation and the prestige that was given to the navy?

A An occupational force finds it difficult to be popular at any time. With this reservation I would like to state that the navy, as far as I know, enjoyed a very good name and a very good reputation in Norway.

H0137 - 0078

Norwegian friends of mine told me of this during the war and they confirmed this to me repeatedly.

Q Among these Norwegian friends of yours was a friend of yours an ambassador at Oslo?

A Yes, 1931 to '33.

Q Now, I have a last question. Yesterday a document was submitted, GB-843. This document is signed by Brauer, who at that time, in March of 1940, was at the legation in Oslo. I should like to submit this document to you.

A Shall I read the entire document?

Q If you can just scan it, I think it will serve the purpose. Pay special attention to the middle part of the document.

Mr. President, GB-466; this document was submitted yesterday.

Brauer said, according to this document, that the danger of a Britihs landing in Norway is not quite as large as is assumed by the other side, and he mentioned only measures through which Germany is to be protected.

What can you tell us about these statements of Brauer's? Are these correct statements?

A Brauer was not with the legation; he was ambassador himself, and that he reported correctly on a subjective basis, that I agreed with from the beginning. Whether objectively everything took place that way, that is another question. That means whether Brauer knew of the intentions of our opponents, whether he was accurately informed about our opponents, that is another question.

Q Mr. von Weizsaecker, according to the information which you subsequently received from the Foreign Office were the concerns on the part of Raeder justified or was the picture given by Brauer correct?

A I must say subsequently or in retrospect that my personal opinion agreed with the opinion of Brauer, which has been seen subsequently to be incorrect, but that the thoughts of the navy at the time were justified or were more justified than the judgment which the ambassador gave.

DR. SIEMERS: Thank you very much. I have no further questions.

THE PRESIDENT: Do any of the other defense counsel want to ask any questi of this witness?

H0137-0079

BY DR. SEIDL (Counsel for defendant Hess):

Q Mr. Witness, on the 23rd of August 1939, between Germany and the Soviet Union a non-aggression pact was concluded. Beyond this non-aggression pact on this day between the two governments, were other agreements made betwe these two governments?

GENERAL RUDENKO: Mr. President, the witness is called to answer to the defense questions which are mentioned in the application of Dr. Siemers. I consider that the question which has been put to him by the defense has nothing t do with the case at hand and, therefore, ought to be ruled out.

H0137 - 0080

THE PRESIDENT: You may ask the question, Dr. Seidl , that you were going to ask.

BY DR. SEIDL:

Q I would like to ask you again whether on that date, 23 August 1939, there were other agreements between the two governments which were not contained in the Non-Aggression Pact.

A Yes.

Q And where were these agreements contained?

A These agreements were contained in a secret protocol.

Q Did you yourself see this and read this document in your capacity as State Secretary in the Foreign Office?

A Yes.

Q I have before me a text about which there can be no doubt that these agreements are reproduced faithfully and authentically. I shall have this text submitted to you.

THE PRESIDENT: What document are you putting to him?

DR. SEIDL: The secret appendix document dated 23 August 1939.

THE PRESIDENT: What is this document that you are presenting to the witness? There is a document which you have already presented to the Tribunal and which has been ruled out. Is this the same document?

DR. SEIDL: It is the document which I submitted to the High Tribunal in my documents and which was turned down by the High Tribunal as a document, I assume, for the reason that I refused to divulge the origin and source of the document. The High Tribunal at that time granted me, however, that I might produce a new affidavit given by Gauss.

THE PRESIDENT: You have not done it?

DR. SEIDL: No, but at this time, Your Honor, in order to support the memory of the witness, I should like to read this text and in connection therewith to ask the witness whether, in his recollection, the secret agreement are reproduced authentically in this document which I should like to read and submit.

GENERAL RUDENKO: I would like, gentlemen of the Tribunal, to protest against these questions for two reasons.

H0137 - 0081

First of all, we are hearing the case of the main German war criminals and not the promises of Allied countries.

Secondly, the document which Dr. Seidl is attempting to submit has been rejected by the Tribunal as it is a document of unknown origin and, of course, cannot be a document having probitive value.

DR. SEIDL: May I just say the following, Mr. President, in answer?

Mr. President, this document is an essential part of the Non-Aggression Pact which has been submitted by the Prosecution in evidence as GB 145. Now I should like to submit the text--

THE PRESIDENT: The question is whether it is the document which has been rejected by the Tribunal. Is it the document which has been rejected by the Tribunal?

DR. SEIDL: It was refused as a document, but it seems to me there is a difference, Your Honor, in connection with the question of whether, with the testimony of the witness, this document may be shown to the witness, and I should like to affirm this question for the reason that the Prosecution, in cross examination, for their part, have the possibility of submitting to the witness the document which they have, and on the basis of the testimony of the witness we will see which text is the correct one or whether these two texts agree at all.

THE PRESIDENT: Where does the document which you are presenting come from?

DR. SEIDL: I received this document a few weeks ago from a source, a man on the Allied side, who seems entirely reliable to me, but I received it only on condition that I would not divulge the exact source, and it seems perfectly understandable to me.

THE PRESIDENT: Do you say that you received it a few moments ago?

DR. SEIDL: Weeks ago.

THE PRESIDENT: It is the same document that you say just now that you presented to the Tribunal and the Tribunal rejected?

DR. SEIDL: Yes, but the High Tribunal decided that I might secure a new affidavit from Ambassador Gauss and submit it to the High Tribunal.

H0137-0082

THE PRESIDENT: I know, but you have not done so. We do not know what affidavit Dr. Gauss has made.

DR. SEIDL: I have this affidavit of Ambassador Gauss. I have it in hand, but it has not been translated as yet.

MR. DODD: I join General Rudenko in objecting to the use of this document. We now know that it comes from some anonymous source. We do not know the source at all, and anyway it is not established that this witness does not remember himself what this purported agreement amounted to. I do not know why he can not ask him, if that is what he wants to do.

THE PRESIDENT: Dr. Seidl, you may ask the witness what his recollection is of the treaty, without putting the document to him. Ask him what he remembers of the treaty, or the protocol.

BY DR. SEIDL:

Q Mr. Witness please describe the contents of the agreement insofar as it remains in your recollection.

A We are concerned here with a very comprehensive and extensive secret appendix agreement to the Non-Aggression Pact which was concluded at that time. The scope of this document was very large for the reason that it partitioned spheres of influence and drew a line between those areas which, under given circumstance would be of interest to Soviet Russia and others which should belon to the German sphere of interest.

To the Soviet Russian sphere, the following were to belon Finland, Esthonia, Latvia, the eastern part of Poland, and, as far as I can recall, certain areas of Rumania were also dealt with. Anything west of this area was to belong to the German sphere of interest.

Of course, this secret agreement was not maintained in this form. On a later occasion, either in September or October of the same year, a certain change was made, an amendment was made to the agreement which existed, and the essential difference was, so far as I recall, that Lithuania, or in any event the largest part of Lithuania, was to be put into the Russian sphere of influence,

H0137-0083

and vice versa in the Polish area. The line of demarcation of the two spheres of interest was moved to a considerable extent to the west. I believe that with this matter the essential content of the secret agreement and the later secret appendix agreement may be summarized.

H0137 - 0084

Q Is it correct that in the case of a territorial change, the line of demarcation was agreed upon in the territory of Poland, the Polish State?

A Whether the expression "line of demarcation" was contained in this protocol or whether it w s a line of separation of the spheres of interest -- I cannot give you the exact wording.

Q But a line was mentioned and drawn?

A Just this line which I have just mentioned, and I believe I do remember that this line, later on, when this agreement was realized, was adhered to in the main, perhaps not in every detail, but on the whole, yes.

Q Do you recall -- and this is my last question -- whether this secret appendix agreement of the 23rd of August 1939 also contained an agreement dealing with the future fate of Poland?

A This secret agreement included and brought with it a complete new order in Poland, and it may very well have been that explicitly or imlicitly a new order was set forth in the agreement, but I would not commit myself as to the wording.

DR. SEIDL: Mr. President, I have no further questions.

BY THE PRESIDENT:

Q Witness, did you see the original of the secret treaty?

A I saw a photographic copy of the original, and perhaps the original as well, but in any event I had the photostatic copy in my hands repeatedly. I had a photostatic copy in my personal safe, had it locked up in my personal safe.

Q Could you recognize a copy of it if it was shown to you?

A Oh, I do believe so with certainty, Your Honor, yes.

The original signatures were appended as well, and they were marked. That would let me recognize it immediately.

THE PRESIDENT: The Tribunal will adjourn.

(A recess was taken)

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THE PRESIDENT: The Tribunal has been considering whether it ought to put to the witness the document in the possession of Dr. Seidl, but, in view of the fact that the contents of the original have been stated by the witness and by other witnesses and that it dois not appear what is the origin of the cedument which is in Dr. Seidl's possession, the Tribunal has decided not to put the document to the witness. The Tribunal will now adjourn

(The Tribunal adjourned until 22 May 1946 at 1000 hours.)